

**CALIFORNIA COASTAL COMMISSION**

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**W-7a**

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Hearing Date: August 11, 2004

**APPEAL STAFF REPORT  
SUBSTANTIAL ISSUE DETERMINATION  
AND DE NOVO REVIEW**

**APPEAL NO.:** A-2-SMC-04-009

**APPLICANT:** Keith and Cindy Waddell

**LOCAL GOVERNMENT:** San Mateo County

**LOCAL DECISION:** Approval with Conditions

**PROJECT LOCATION:** 153-acre parcel at 21960 Highway 1, near Tunitas Creek Road, in the unincorporated area of San Mateo County south of the City of Half Moon Bay, APN 066-330-160

**PROJECT DESCRIPTION:** Construction of a 7,650 sq. ft. single-family residence, 3,000 sq. ft. agricultural barn, two septic systems, 5,280 cubic yards of grading for an approximately 3,000 ft. long access road, conversion of an agricultural well for domestic purposes, and installation of a water tank.

**APPELLANTS:** Commissioners Meg Caldwell and Mike Reilly

**SUBSTANTIVE FILE  
DOCUMENTS:** See Appendix A

**STAFF  
RECOMMENDATION:** Substantial Issue Exists; Denial

### Exhibits

- 1 Regional Location Map
- 2 Site Map
- 3 County of San Mateo Approved Coastal Development Permit
- 4 List of Applicable County of San Mateo Local Coastal Plan Policies
- 5 San Mateo County's Notice of Final Action
- 6 Appeals filed by Commissioners Caldwell and Reilly
- 7 Map of Plant Communities
- 8 Prairie dependent species of Santa Cruz County

The County of San Mateo approved with conditions a coastal development permit for construction of a new 7,650-sq.-ft. residence, a 3,000-sq.-ft. agricultural barn, and two septic systems; installation of a water tank for fire suppression; construction of an approximately 3,000-ft.-long access road involving approximately 5,280 cubic yards of grading; and conversion of an agricultural well to domestic purposes to serve the approved development, on a 153-acre parcel zoned for agricultural use in the rural area of San Mateo County south of Half Moon Bay.

On July 15<sup>th</sup> 2004, Commissioners Caldwell and Reilly filed an appeal of the permit on the grounds that the approved development is inconsistent with the County of San Mateo LCP policies requiring the protection of sensitive habitats, preservation of agricultural lands, and protection of scenic resources.

San Mateo County LUP Policy 7.3 prohibits land uses and development that would have a significant adverse impact on sensitive habitat areas, and LUP Policy 7.4 specifies that only resource-dependent uses are permitted in areas meeting the LCP definition of sensitive habitat. The subject development includes a single-family residence that is located in part in an area identified as coastal terrace prairie, which is a sensitive habitat as defined under the LCP. The subject development also includes an access road that is located nearly entirely within coastal terrace prairie. According to the County, approximately 0.7 acres of coastal terrace prairie would be impacted by the development. This is inconsistent with Policies 7.3 and 7.4. Although the County found that this impact was unavoidable, the County's findings contained no analysis of available alternative locations for the approved structures or roads that would avoid impacting this sensitive habitat. Contrary to the County's findings, there are areas of the site that could allow development without impacting coastal terrace prairie or other identified sensitive habitat areas, and that would be consistent with LCP policies 7.3 and 7.4.

The 153-acre site contains approximately 88 acres of coastal terrace prairie, and approximately 3.6 acres of riparian and wetland habitats (one acre of willow riparian woodland, 0.4 acres of alder riparian woodland, two acres of wet meadow, and 0.2 acres of freshwater marsh habitats) (Biotic Resources Group, 2002). On the remaining approximately 61 acres of the site are several locations where clustered development could occur. Accordingly, an opportunity exists to develop the site in a manner consistent with the LCP policies requiring protection of sensitive habitat, and as discussed further below, the LCP policies requiring protection of agricultural lands and scenic resources.

The project site, which is grazing land that has been used in the past as commercial grazing land, is zoned PAD (Planned Agricultural District). As stated in County Zoning Code Section 6350, the purpose of the PAD zoning district is to preserve and foster existing and potential agricultural operations in order to keep the maximum amount of agricultural land in agricultural production. In accordance with this goal, the LCP contains a number of specific substantive criteria for the conversion of agricultural lands to non-agricultural conditional uses such as residential development and specifies that all of these criteria must be met in order to approve such development. The subject development does not meet all of the required criteria and is therefore inconsistent with the agricultural preservation policies of the County's LCP.

For example, the development is inconsistent with Zoning Code Sections 6355.A.1 and 6355.A.2, which state that: (1) the encroachment of all development upon land which is suitable for agriculture shall be minimized, and (2) all development permitted on a site shall be clustered. Contrary to these requirements, the subject development is not sited close to existing roads or development as required to minimize encroachment into agricultural lands, but instead is proposed to be located approximately 2,000 feet from Tunitas Creek Road and approximately 3,000 feet from Highway 1, the two public roads bordering the site, and would not be clustered with the existing residential development along Tunitas Creek Road or an existing cellular facility near Highway 1 on the applicants' property. Thus, the subject development would not minimize encroachment onto lands suitable for agricultural use and is not clustered with existing development either on or adjacent to the project site, in conflict with the requirements of the certified LCP.

Another of the substantive criteria required to be met for approval of residential development on lands suitable for agriculture is provided in Zoning Code Section 6355.F.1, which states that all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable. Although the majority of the project site supports grazing and is therefore suitable for agriculture as defined by the LCP, certain areas of the 153-acre site do not support grazing, including the non-native woodlands along Highway 1. This is also the area of the site where the existing cellular facility is located and, based on Commission staff's review of the project plans, aerial photographs, and site visit, appears to be a feasible alternative to the development site proposed by the applicant. The applicant has not provided evidence demonstrating that locating a residential development in this area of the site is infeasible. As such, all agriculturally unsuitable lands on the parcel have not been developed or determined to be undevelopable as necessary under the certified LCP in order to allow the proposed development to be sited on the subject parcel.

The subject development is also inconsistent with LCP Policy 8.5, which requires that new development be located on a portion of a parcel where the development: (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Contrary to these requirements, the project would create an approximately 3,000-ft.-long access road requiring approximately 5,280 cubic yards of grading. The access road would transect the south-facing slopes from west to east, generally following the natural topography. Based on Coastal Commission staff review of available photographs and topographic maps of the property, the access road transecting the site appears

visible from portions of Highway 1, and from areas to the south of the site. Additionally, the access road would require extensive grading (approximately 5,280 cubic yards).

Finally, LCP Policy 8.17 requires that development be controlled to avoid the need to construct access roads visible from State and County Scenic Roads and requires the shared use of existing private roads whenever possible. New roads are required to be located and designed to minimize visibility from State and County Scenic Roads and built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics. Contrary to these requirements, the residence has been located in an isolated area in the northeast corner of the parcel, necessitating the construction of a long access road.

Therefore, for all of the above-summarized reasons, the staff recommends that the Commission: (1) find that the appeal raises a substantial issue of conformity of the approved development with the certified LCP, and (2) deny the proposed development. As discussed above, available alternative locations exist on the site that would allow development to be clustered near existing roads and development and outside of the coastal terrace prairie habitat, and that would lessen or avoid encroachment onto agricultural lands, reduce conflicts with continued agricultural use on adjacent lands, and minimize visual impacts.

#### **SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE**

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

San Mateo County (“the County”) approved with conditions a coastal development permit (Exhibit 3) for the following development on a 153-acre parcel:

1. 7,650 sq. ft. single-family residence;
2. 3,000 sq. ft. agricultural barn
3. Two septic systems
4. Conversion of an agricultural well for both agricultural and domestic purposes
5. Installation of a water tank for fire suppression;
6. An approximately 3,000 ft. long access road involving approximately 5,280 cubic yards of grading

The appellants contend that the approved project is not consistent with the coastal resources protection policies of the County's certified Local Coastal Program (“LCP”) regarding preservation of agricultural lands, protection of sensitive habitat, and visual resources (Exhibit 6).

Commission staff analysis indicates that the appeal raises significant questions regarding whether the development approved by the County is consistent with the County’s LCP. Commission staff recommends that the Commission find that the project, as approved by the

County, raises a substantial issue with regard to conformance of the approved development with the agriculture, sensitive habitat and visual resources policies of the County's LCP.

The Motion to adopt the Staff Recommendation of Substantial Issue is found in Section 1.0.

## **SUMMARY OF STAFF RECOMMENDATION: DENIAL OF COASTAL PERMIT APPLICATION**

The staff recommends that the Commission deny the coastal development permit for the proposed project on the basis that it is in conflict with the policies of the County's certified LCP regarding agriculture, sensitive habitat, and visual resources.

The Motion to adopt the Staff Recommendation of Denial is found in Section 3.0.

## **PART 1 – SUBSTANTIAL ISSUE**

### **1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

#### **Motion**

*I move that the Commission determine that Appeal No. A-2-SMC-04-009 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.*

#### **Staff Recommendation of Substantial Issue**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

#### **Resolution of Substantial Issue**

The Commission hereby finds that Appeal No. A-2-SMC-04-009 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

## **2.0 FINDING AND DECLARATIONS**

The Commission hereby finds and declares:

### **2.1 Local Government Action**

June 19, 2002	Application submitted. Project involved a new residence, agricultural barn, and native plant nursery.
August 22, 2002	Letter received from Coastal Commission staff concerning issues raised by the proposed development with LCP policies related to biological resources, visual impacts, site access and grading, and conversion of agricultural lands.
November 13, 2002	Public workshop required to discuss the project with neighbors and interested parties because the project involved over 10,000 sq. ft. of new structural floor area.
April 22, 2003	Initial Study and Negative Declaration posted for public review and comment. County Staff received telephone call from Coastal Commission staff regarding a concern over impacts to coastal terrace prairie.
May 12, 2003	Meeting at the subject site between Coastal Commission staff, County staff, applicant, and applicant consultants to discuss Coastal Commission concerns regarding impacts to coastal terrace prairie, visual impacts, and alternative development locations.
November 3, 2003	Agricultural Advisory Committee reviews the proposed project and finds no issues with the proposed development. Applicant also submits revised plans. New plans eliminate the native plant nursery, move the access road and agricultural barn location. New road location has two issues: impacts to the existing agricultural pond surrounded by riparian vegetation as well as the road is steeper than the Fire Department would allow.
January 15, 2004	Applicant submits revised plans showing a revised access road. The revised access road is in alignment with an existing unpaved path and relocated away from the existing agricultural pond. Fire Department reviewed but requested a fire truck turnaround be installed near the house and barn.
February 26, 2004	Applicant submits revised plans showing fire truck turnaround.
May 3, 2004	Initial Study and Negative Declaration re-circulated for public review and comment.

June 9, 2004                      Project approved by Planning Commission.

## **2.2      Filing of Appeal**

The Coastal Commission received the Notice of Final Action for the County's approval of the subject development on June 30, 2004 (Exhibit 5). In accordance with the Commission's regulations, the 10-working-day appeal period ran from July 1 through July 15, 2004 (14 CCR Section 13110). On July 15, 2004, Commissioners Meg Caldwell and Mike Reilly filed an appeal of the County of San Mateo's decision to approve the project. These Commissioner appellants timely submitted their appeals (Exhibit 6) to the Commission office within 10 working days of receipt by the Commission of the Notice of Final Local Action.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. The appeal on the above-described decision was filed on July 15, 2004 and the 49<sup>th</sup> day is on September 2, 2004. The only Commission meetings within the 49-day period are on August 11, 12, and 13, 2004.

In accordance with Section 13112 of Title 14 of the California Code of Regulations, on July 15, 2004, staff requested from the County all relevant documents and materials regarding the subject approval to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. The Commission received the local record from the County on July 22, 2004.

Please refer to Exhibit 6 for the full text of the appeal. The appellants' contentions that raise a substantial issue with respect to conformance of the project with the policies of the San Mateo County certified LCP are summarized in the section of these findings entitled, "Allegations that Raise Substantial Issue."

## **2.3      Appeal Process**

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county.

The subject development, which was approved by the County of San Mateo, is appealable to the California Coastal Commission based on Coastal Act Section 30603(a)(4)), since the approved residential development is not the principal permitted use within the Planned Agricultural District (PAD) in which the project is sited. This determination that the development is not the principally permitted use is consistent with the County's determination that a Planned Agricultural District permit was required for the subject development.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal raises no substantial issue of conformity of the approved project with the certified LCP. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of the Commissioners present to find that no substantial issue is raised. The only persons eligible to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding the substantial issue question must be submitted to the Commission or the Executive Director in writing.

Unless it is determined that the project raises no substantial issue, the Commission will conduct a full de novo public hearing on the merits of the project at the same or subsequent hearing. If the Commission conducts a de novo hearing on the appeal, the applicable test under Coastal Act Section 30604 would be whether the development is in conformance with the certified Local Coastal Program.

## **2.4 Project Location and Site Description**

The subject property (APN 066-330-160) is an approximately 153-acre parcel bordering on the inland side of Highway 1 and the north side of Tunitas Creek Road in the rural unincorporated area of the San Mateo Coast south of Half Moon Bay (Exhibits 1 and 2). The project site is zoned Planned Agricultural District/Coastal Development (PAD/CD). The site contains a cellular facility, located along the western boundary of the site near Highway 1. The cellular facility was installed pursuant to a conditional use permit, approved by the County in June 2001. The facility occupies an approximately 10-foot by 20-foot area, at the end of a small access road from Highway 1. As shown on Exhibit 2, the cellular facility is located approximately 100 feet east of the highway, and is effectively screened from view from Highway 1 by stands of Monterey cypress and eucalyptus trees.

The property slopes up from Highway 1 and contains a number of habitat types including: coastal terrace prairie; coastal scrub; coyote brush scrub; non-native grassland; and native and non-native woodlands including Monterey pines, eucalyptus, and Monterey cypress; willow riparian woodland, alder riparian woodland, and freshwater marsh areas near the existing pond located in the southeast portion of the property. Approximately 57% of the property is covered



by coastal terrace prairie, which is considered rare habitat by the California Department of Fish and Game, and meets the definition of sensitive habitat in the San Mateo County LCP.

Although the project site does not contain prime agricultural soils, it is considered as “other lands suitable for agriculture” as defined by the LCP because it is capable of supporting animal grazing. Currently, the site is used for cattle grazing. Accordingly, the site is designated as Agriculture in the County’s Land Use Plan and is zoned PAD (Planned Agricultural District).

During an archaeological survey of the property, evidence of prehistoric cultural resources was found in the southeast area of the site, near Tunitas Creek Road (Clark, 2002). This prehistoric site reportedly is a continuation of a prehistoric site found on an adjacent property (Marsh) to the west. The approved development does not impact these identified resources. No other historic or prehistoric resources were found on the property.

## **2.5 Project Description**

The approved project includes the construction of a new 7,650-sq.-ft. residence, a 3,000-sq.-ft. agricultural barn, installation of two septic systems, conversion of an agricultural well to both agricultural and domestic purposes, installation of a water tank for fire suppression, and approximately 5,280 cubic yards of grading to create an approximately 3,000-ft.-long access road, and building pads for the residence and agricultural barn. A part of the approved grading includes the repair of some of the existing eroded gullies on the property.

The County conditioned its approval of the development to include the following measures:

*The applicant shall adhere to all recommendations presented in the Gully Assessment and Stabilization Plan Phase I as prepared by Sigma Prime Geosciences. The applicant’s engineer of record shall oversee and confirm to the Planning Division, in writing, that all such measures have been implemented as recommended. Any revisions shall be subject to staff approval.*

*Prior to the roadway and residential development, conduct a summer survey for Gairdner’s yampah. If the species is found nearby, impacting development shall be relocated to avoid impacts. If redesign is not feasible, a salvage and relocation program shall be implemented, moving the plants to another suitable location on the property. Salvage shall occur when plants are in their winter dormancy (i.e., December-January), and shall be carried out or overseen by the applicant’s biologist.*

*Prior to driveway improvements, the biologist shall identify prairie areas of high native plant diversity and design driveway improvements to minimize impacts to those areas.*

*The applicant shall install, and staff shall confirm such installation, plastic, protective fencing adjacent to high quality prairie areas prior to residential and driveway construction and other grading activities. The applicant shall ensure that protective fencing is maintained until driveway and residential construction work is complete.*

*As compensation for unavoidable impacts on 0.7 acres of coastal terrace prairie, the applicant shall continue to implement a rotational grazing program that maintains the remaining prairie habitat on the property and encourages the growth of native perennial grasses, particularly California Oatgrass (*Danthonia californica*) and purple needlegrass (*Nassella pulchra*). Implement the program in a manner compatible with gully and erosion repair work, such as restricting domesticated grazing animals (e.g, cattle and/or horses) from erosion treatment areas.*

## **2.6 Substantial Issue Analysis**

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP.

Public Resources Code Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

**The Commission finds that the appeal raises a substantial issue with respect to conformance of the approved project with policies of the San Mateo County certified LCP regarding sensitive habitat areas, agricultural lands, and visual resources.**

## 2.6.1 Sensitive Habitat

### *Appellants' Contentions*

The appellants assert that the subject development is inconsistent with San Mateo County LUP Policies 7.3, and 7.4, which protect sensitive habitats (Exhibit 6).

### *Applicable LCP Policies*

#### 7.1 Definition of Sensitive Habitats

*Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.*

*Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.*

#### 7.3 Protection of Sensitive Habitats

- a. *Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.*
- b. *Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.*

#### 7.4 Permitted Uses in Sensitive Habitat

- a. *Permit only resource dependent uses in sensitive habitats. Resource dependent uses for riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and habitats supporting rare, endangered, and unique species shall be the uses permitted in Policies 7.9, 7.16, 7.23, 7.26, 7.30, 7.33, and 7.44, respectively, of the County Local Coastal Program on March 25, 1986.<sup>1</sup>*
- b. *In sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife and State Department of Fish and Game regulations.*

#### **Discussion**

The Commission finds that the appeal raises a substantial issue regarding conformity of the project approved by the County with LUP Policies 7.1, 7.3, 7.4, and 7.33 which address sensitive habitats, based on the following:

1. The significance of the coastal resources affected by the decision;
2. The precedential value of the local government's decision for future interpretation of its LCP;
3. Whether the appeal raises only local issues, or those of regional or statewide significance; and
4. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP.

These factors in support of the determination that the appeal raises substantial issues of conformity of the approved project with the sensitive habitat policies of the LUP are described in more detail in the following paragraphs.

#### Significance of Coastal Resources

The subject property contains significant areas of coastal terrace prairie, which is a sensitive habitat as defined in LCP Policy 7.1, which states:

*“Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting “rare and endangered” species as defined by the State Fish and Game Commission,...”*

The site is reported to contain approximately 88 acres of coastal terrace prairie, covering approximately 57% of the site (Exhibit 7) (Biotic Resources Group, 2002). Coastal terrace

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<sup>1</sup> These include Permitted Uses in: Riparian Corridors (7.9); Wetlands (7.16); Marine and Estuarine Habitats (7.23); Sand Dunes (7.26); Sea Cliffs (7.30); and Permitted uses associated with Rare and Endangered Species (7.33); and Unique Species (7.44).

prairie is described as dense, tall grassland dominated by both sod and tussock forming perennial grasses. The distribution of coastal terrace prairie is discontinuous from the central California coast north into Oregon, and may include different combinations of associated plant communities depending on the conditions at a particular location. The diversity of plant species in coastal terrace prairies is reportedly among the highest in grasslands of North America (Stohlgren et al. 1999). Coastal terrace prairie reportedly contains more plant species per square meter than any other grassland in North America. In addition, there are numerous rare, threatened, and endangered species associated with this habitat (Exhibit 8). The California Native Plant Society (CNPS) reports:

*“...prairie habitats support as many as 250 species of native wildflowers. For Santa Cruz County, the CNPS lists 13 species of concern in their Inventory of Rare and Endangered Plants of California (1995). The diversity of these prairie wildflower species, in turn, supports an even greater diversity of insect species, many of which are severely reduced in numbers (e.g., Schinia sp.- a genus of colorful diurnal noctuid moths; and solitary bees such as in the families Andrenidae and Anthophoridae) and some of which teeter on the verge of extinction (e.g., Cicindela Ohlone, Ohlone Tiger Beetle and Adela oplerella, Opler’s long horned moth). Some known species have already been lost (e.g., Lytta molesta, molestan blister beetle) and, undoubtedly, others have disappeared before even being described. The reduction in numbers of plant species and numbers of populations of insects leads to a collapse in the prey base for many other species- birds, shrews, and bats, for instance.” (CNPS)*

As such, coastal terrace prairie is an especially valuable habitat because of its special nature and role in the ecosystem.

A recently completed study by Defenders of Wildlife ranked 21 United States ecosystems as the nation's most endangered; California’s native grasslands ranked as the fifth most endangered ecosystem (Noss and Peters, 1995). Other studies have found that California has lost over 99% of its native grasslands, including 90 percent of the north coastal bunchgrass (Sierra Club, 2004, Noss and Peters, 1995). The loss of coastal terrace prairie has continued over the years due to development, conversion of habitat to agricultural uses, exotic weed invasion, habitat fragmentation, and erosion. The loss of coastal terrace prairie habitat over time has not been quantified, but is considered significant by researchers in the field. Thus, the available evidence demonstrates that coastal terrace prairie is a rare habitat.

The California Department of Fish and Game has identified coastal terrace prairie as rare habitat. Additionally, other local governments in the Central Coast area of California have recognized the need to protect remaining coastal terrace prairie habitat. The City of Carmel-by-the-Sea has included coastal terrace prairie as an Environmentally Sensitive Habitat Area (ESHA) under the City’s General Plan/Coastal Land Use Plan that includes policies for protection of the City’s coastal environmental resources.

Furthermore, the County of Monterey, in its General Plan Draft Coastal Element, has currently proposed listing coastal terrace prairie as an Environmentally Sensitive Habitat Area:

*“...protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.”*

Coastal terrace prairie on the project site is characterized by the presence of California oatgrass (*Danthonia californica*), a perennial native grass. Coastal terrace prairie on the site also includes other grass species such as purple needlegrass, rattail fescue, quaking grass, tall fescue, and rattlesnake grass, as well as non-grass species such as western rush, sun cups, soap plant, annual lupine, and California poppy, among others. Field surveys of the site during did not confirm the presence of the plant species Gairdner's yampah (*Perideridia gairdneri*), during a Rare Plant Survey conducted during the summer of 2002. (Biotic Resources Group, 2003).

As discussed above, coastal terrace prairie is rare, especially valuable, supports several rare and endangered species, and has been identified by the California Department of Fish and Game as a rare habitat. As such, coastal terrace prairie is a sensitive habitat as defined in LUP Policy 7.1.

The proposed residence and access road are located in areas identified as coastal terrace prairie. The County of San Mateo LCP Policy 7.3, Protection of Sensitive Habitats, prohibits land uses and development that would have a significant adverse impact on sensitive habitat areas. Pursuant to LCP Policy 7.4, only resource-dependent uses are permitted in areas meeting the LCP definition of sensitive habitat.

#### Precedent, Regional and Statewide Significance

The protection of coastal terrace prairie habitat is an issue of regional and statewide significance. To allow the approved development to destroy coastal terrace prairie habitat would set an adverse precedent for the local government's implementation of its LCP policies regarding protection of this and other sensitive habitats.

#### Factual and Legal Support for Consistency Determination

The Commission finds that there is insufficient support for the County's findings that the project is consistent with LUP Policies 7.3 and 7.4, which require protection of sensitive habitats and permitted uses within sensitive habitat areas. The County found that the approved project would impact approximately 0.7 acres of coastal terrace prairie. Based on this finding alone, the approved development is inconsistent with LUP Policy 7.4. Although the County found that this impact was "unavoidable," the County has not demonstrated that no feasible development site exists on the approximately 61 acres of the site that do not contain sensitive habitat. In fact, it appears based on examination of the project site plan, aerial photographs, and other evidence in the record that several alternative development sites exist on the parcel that could feasibly accommodate a reasonable development without impacting coastal terrace prairie or other sensitive habitat areas in a manner that would conform to the requirements of the LCP. As such, the County's determination that impacts to sensitive habitat are unavoidable is not supported by the evidence in the administrative record.

#### ***Conclusion***

For all of the above-stated reasons, the Commission finds that the appellants' contentions regarding sensitive habitat raise a substantial issue of conformity of the approved project with Policies 7.1, 7.3 and 7.4 of the LUP, which address sensitive habitat protection.

#### **2.6.2 Agricultural Resources**

## **Appellants' Contentions**

The appellants assert that the subject development is inconsistent with agricultural policies of the San Mateo County LCP.

### ***Applicable LCP Policies***

#### ***5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture***

- a. Prohibits the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:*
  - (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*
  - (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;*
  - (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;*
  - (4) The productivity of any adjacent agricultural lands is not diminished;*
  - (5) Public Service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.*

#### ***Zoning Code Section 6350. Purpose of the Planned Agricultural District***

*The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:*

- (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,*
- (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,*
- (c) developing available lands not suitable for agriculture before converting agricultural lands,*
- (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*

- (e) *assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.*

*Zoning Code Section 6353. Uses Permitted Subject to the Issuance of a Planned Agricultural Permit*

*The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance.*

*Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore.*

*B. On Lands Suitable for Agriculture and Other Lands*

*1. Single-family residences.*

*Zoning Code Section 6355. Substantive Criteria For Issuance of a Planned Agricultural Permit*

*It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:*

*A. General Criteria*

- 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized.*
- 2. All development permitted on a site shall be clustered.*
- 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.*

*F. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands*

*All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:*



1. *all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and*
2. *continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and*
3. *clearly defined buffer areas are developed between agricultural and nonagricultural uses, and*
4. *the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*
5. *public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*

*For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.*

### ***Discussion***

The Commission finds that the appeals raise a substantial issue regarding conformity of the project approved by the County with the San Mateo County LCP Policies regarding the preservation of agricultural lands, based on the following:

1. The significance of the coastal resources affected by the decision;
2. The precedential value of the local government's decision for future interpretation of its LCP;
3. Whether the appeal raises only local issues, or those of regional or statewide significance; and
4. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP.

These factors in support of the determination that the appeal raises substantial issues of conformity of the approved project with the agricultural resource policies of the LCP are described in more detail in the following paragraphs.

### **Significance of Coastal Resources**

Currently, the project site is used for cattle grazing. Although the project site does not contain prime agricultural soils, it is considered as "other lands suitable for agriculture" as defined by LUP Policy 5.3 because it is capable of supporting animal grazing. Accordingly, the site is designated as Agriculture in the County's Land Use Plan and is zoned PAD (Planned Agricultural District).

The purpose of the PAD zoning designation is to maintain the maximum amount of agricultural land in agricultural production. As such, the policies of the San Mateo County LCP strictly limit the conversion of agricultural lands to non-agricultural uses. Conversion of agricultural lands is prohibited unless the applicant provides factual evidence demonstrating that the development would meet the goals of the PAD zoning district and where all of the criteria specified in LUP Policy 5.10.a and Zoning Code Section 6355 are satisfied. The approved development does not meet the requirements of the LCP because the applicant has not provided evidence demonstrating that the development would maintain the maximum amount of agricultural land in agricultural production and because the criteria required to allow the conversion of agricultural land that are specified in LUP Policy 5.10.a and Zoning Code Section 6355 have not all been met.

#### Precedent, Regional and Statewide Significance

The agricultural resources impacted by the development approved by the County raise issues of regional and statewide significance and sets an important precedent for the local government's decision for future interpretation of its LCP regarding preservation of agricultural uses on agricultural lands and protection of the agricultural economy in the rural areas of the San Mateo coast.

#### Factual and Legal Support for Consistency Determination

Pursuant to Zoning Code Sections 6361(E):

*The County shall make findings with respect to each application for division or conversion of lands in the Planned Agricultural District. Such findings shall be in writing, based on fact, and shall set forth specific reasons why proposed division or conversion meets or fails to meet all applicable requirements of this ordinance.*

The County's findings do not provide evidence to satisfy the requirements of LUP Policy 5.10.a, or Zoning Code Sections 6350 and 6355. For example, among the criteria required to be met to allow residential development on lands suitable for agriculture are Zoning Code Section 6355.A.1 and 6355.A.2, which state that: (1) the encroachment of all development upon land which is suitable for agriculture shall be minimized, and (2) all development permitted on a site shall be clustered. Contrary to these requirements, the approved development is not sited close to existing roads or development as required to minimize encroachment into agricultural lands, but instead is proposed to be located approximately 2,000 feet from Tunitas Creek Road and approximately 3,000 feet from Highway 1, the two public roads bordering the site, and would not be clustered with the existing residential development along Tunitas Creek Road or the existing cellular facility near Highway 1 on the applicants' property. Thus, the approved development would not minimize encroachment onto lands suitable for agricultural use and is not clustered with existing development either on or adjacent to the project site, as required by the LCP.

Another of the substantive criteria required to be met for approval of residential development on lands suitable for agriculture is provided in Zoning Code Section 6355.F.1, which states that all agriculturally unsuitable lands on the parcel have been developed or determined to be

undevelopable. Although the majority of the project site supports grazing and is therefore suitable for agriculture as defined by the LCP, certain areas of the 153-acre site do not support grazing, including the non-native woodlands along Highway 1. This is also the area of the site where the existing cellular facility is located and, based on Commission staff's review of the project plans, aerial photographs, and site visit, appears to be a feasible alternative to the development site approved by the County. The County has not provided evidence demonstrating that locating a residential development in this area of the site is infeasible. As such, all agriculturally unsuitable lands on the parcel have not been developed or determined to be undevelopable as required in order to allow the approved development under the certified LCP.

As such, the degree of factual and legal evidence in the record is insufficient to support the County's determination that the approved development is consistent with the LCP Policies requiring preservation of agricultural lands.

In addition, the County findings for approval of the project as contained in the County staff memorandum dated June 9, 2004, state that "a small portion of the property (approximately 0.01%) would be converted to non-agricultural uses, the single family residence and driveway." However, because the economic value of the approved residential development has significant potential to exceed the economic value of the site for grazing, the approved development would effectively convert the entire site from agricultural use to residential use, rendering continued agricultural use of the site subordinate to the residential development. Thus, the County's determination that the approved development would convert only 0.01% of the site to non-agricultural development does not convey the full extent to which the agricultural land use potential of the site will be negatively impacted.

### ***Conclusion***

For all of the above-stated reasons, the Commission finds that the appellants' contentions regarding preservation of agricultural uses on agricultural lands raise a substantial issue of conformity of the approved project with the San Mateo County LCP.

## **2.6.2 Visual Resources**

### **Appellants' Contentions**

The appellants assert that the subject development is inconsistent with San Mateo County LUP Policies 8.5 and 8.17, which address visual resources.

### ***Applicable LCP Policy***

#### ***8.5 Location of New Development***

- a. Require that new development be located in a portion of a parcel where the development is (1) least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is*

*consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner, which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.*

*Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.*

#### 8.17 Alteration of Landforms; Roads and Grading

- a. Require that development be located and designed to conform with, rather than change landforms. Minimize the alteration of landforms as a consequence of grading, filling, or other development.*
- b. To the degree possible, ensure the restoration of pre-existing topographic contours after any alteration by development, except to the extent necessary to comply with the requirements of Policy 8.18.*
- c. Control development to avoid the need to construct access roads, visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that the use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.*

#### **Discussion**

The Commission finds that the appeal raises a substantial issue regarding conformity of the project approved by the County with LUP Policies 8.5 and 8.17, which address visual resources, based on the following:

1. The significance of the coastal resources affected by the decision;
2. The precedential value of the local government's decision for future interpretation of its LCP;
3. Whether the appeal raises only local issues, or those of regional or statewide significance; and
4. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP.

These factors in support of the determination that the appeal raises substantial issues of conformity of the approved project with the visual resource policies of the LCP are described in more detail in the following paragraphs.

#### Significance of Coastal Resources

The project site is located on a south and west-facing hillside within an LCP-designated scenic corridor immediately inland of Highway 1 (a State and County designated Scenic Road) (Exhibit 1). The site is surrounded by extensive scenic open space and agricultural land. The project site includes significant areas of open space, used for grazing activities. As mentioned above, the site also contains a cellular facility, located along the western boundary of the site near Highway 1.

#### Precedent, Regional and Statewide Significance

This portion of the San Mateo Coast contains areas of outstanding scenic quality. The County LCP contains strict policies intended to protect and preserve the visual and open space qualities of such highly scenic areas. Thus, it is important that the County rigorously apply the relevant LCP policies to protect the scenic quality of the area by carefully siting and designing development to minimize impacts to the visual character of the area. The approved project must comply with the requirements of LUP Policies 8.5 and 8.17, which protect the scenic quality of the site as viewed from Highway 1. Failure by the County to comply with the requirements of the LCP raises issues of regional significance and sets an important precedent for the local government's decision for future interpretation of its LCP regarding protecting this identified visual resource.

#### Factual and Legal Support for Consistency Determination

San Mateo County LCP Policy 8.5, Location of Development, requires that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Furthermore, LUP Policy 8.17, Alteration of Landforms; Roads and Grading, requires that development be located and designed to conform with rather than change landforms and minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development. This policy further requires that development be controlled to avoid the need to construct access roads visible from state and County Scenic Roads and require the shared use of existing private roads whenever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall also be located and designed to minimize visibility from State and County Scenic Roads, and built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

The approved project locates the proposed residence in an isolated area in the northeast corner of the parcel, necessitating the construction of a long access road. The approved access road transect the south facing slopes from west to east, connecting the location of the proposed residence with State Highway 1, located adjacent to the western boundary of the parcel. The approved road would generally following the natural topography and would be located on slopes greater than 15%. According to the County staff report, the residence itself will not be visible from either Highway 1 or Tunitas Creek Road to the southeast of the property. However, based on Coastal Commission staff review of available photographs and topographic maps of the property, the access road transecting the site would likely be visible from portions of Highway 1,

and from areas to the south of the site. Additionally, the proposed road would require extensive grading (approximately 5,280 cubic yards). The record for the County's action on the approved development does not include an evaluation of the visual impacts of the access road for conformance with the visual resource protection policies of the LCP.

The project site contains potentially developable areas adjacent to existing development on and adjacent to the site and out of the view shed both near Highway 1 and near Tunitas Creek Road. Existing development in both of these locations is screened from view from the highway by landforms and existing vegetation. As such, siting development closer to existing roads and development would eliminate the need to construct a long access road and reduce or eliminate the visual impacts of the development as approved by the County. Concentrating development close to existing roads and development would serve to further preserve the visual and open space qualities of the undeveloped hillsides of the 153-acre parcel.

### ***Conclusion***

For all of the above-stated reasons, the Commission finds that the appellants' contentions raise a substantial issue of conformity of the approved project with the visual resource policies of the certified LCP.

#### **2.6.4 Substantial Issue Conclusion**

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved development with policies of the San Mateo County certified LCP that address sensitive habitat, agricultural and visual resources.

## **PART 2 - DE NOVO ACTION ON APPEAL**

### **PROCEDURE**

Unless the Commission finds that a locally approved coastal development permit raises No Substantial Issue with respect to the policies of the certified LCP, the Commission must consider the merits of the proposed project de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application.

### **3.0 STAFF RECOMMENDATION**

#### **MOTION**

*I move that the Commission approve Coastal Development Permit Application No. A-2-SMC-04-009 for the development proposed by the applicant.*

#### **STAFF RECOMMENDATION OF DENIAL**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### **RESOLUTION TO DENY THE PERMIT**

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform to the policies of the County of San Mateo certified Local Coastal Program.

### **4.0 FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares as follows:

#### **INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS**

The Commission hereby incorporates by reference the Substantial Issue Findings above as if set forth in full.

#### **4.1 Consistency with LCP**

##### **4.1.1 Sensitive Habitat**

##### ***Applicable LCP Policies***

##### ***7.1 Definition of Sensitive Habitats***

*Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting “rare and endangered” species as defined by the State Fish and Game Commission, (2) all perennial and*

*intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.*

*Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.*

### **7.3 Protection of Sensitive Habitats**

- a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.*
- c. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.*

### **7.4 Permitted Uses in Sensitive Habitat**

- c. Permit only resource dependent uses in sensitive habitats. Resource dependent uses for riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and habitats supporting rare, endangered, and unique species shall be the uses permitted in Policies 7.9, 7.16, 7.23, 7.26, 7.30, 7.33, and 7.44, respectively, of the County Local Coastal Program on March 25, 1986.*
- d. In sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife and State Department of Fish and Game regulations.*

## **Rare and Endangered Species**

### **7.33 Permitted Uses**

- a. Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.*

## **Discussion**



The proposed development includes the construction of an access road and single-family home within areas of the site delineated as coastal terrace prairie in the applicant's biological report. Coastal terrace prairie is a sensitive habitat as defined under LUP Policy 7.1. The development would result in the destruction of approximately 0.7 acres of coastal terrace prairie in conflict with LUP Policies 7.3 and 7.4, which prohibit development that would have significant adverse impact to sensitive habitat and permit only resource dependent uses in sensitive habitat areas. Residential development is not defined as a resource dependent use under the LCP and is therefore prohibited within sensitive habitat areas.

Coastal terrace prairie is a dense, tall grassland dominated by both sod and tussock forming perennial grasses. The distribution of coastal terrace prairie is discontinuous from Santa Cruz County north into Oregon, and may include different combinations of associated plant communities depending on the conditions at a particular location. The diversity of plant species in coastal terrace prairie is among the highest in grasslands of North America (Stohlgren et al. 1999). Coastal terrace prairie contains more plant species per square meter than any other grassland in North America. In addition, there are numerous rare, threatened, and endangered species associated with this habitat (Exhibit 8). The California Native Plant Society (CNPS) reports:

*"...prairie habitats support as many as 250 species of native wildflowers. For Santa Cruz County, the CNPS lists 13 species of concern in their Inventory of Rare and Endangered Plants of California (1995). The diversity of these prairie wildflower species, in turn, supports an even greater diversity of insect species, many of which are severely reduced in numbers (e.g., Schinia sp.- a genus of colorful diurnal noctuid moths; and solitary bees such as in the families Andrenidae and Anthophoridae) and some of which teeter on the verge of extinction (e.g., Cicindela Ohlone, Ohlone Tiger Beetle and Adela oplerella, Opler's long horned moth). Some known species have already been lost (e.g., Lytta molesta, molestan blister beetle) and, undoubtedly, others have disappeared before even being described. The reduction in numbers of plant species and numbers of populations of insects leads to a collapse in the prey base for many other species- birds, shrews, and bats, for instance." (CNPS)*

As such, coastal terrace prairie is an especially valuable habitat because of its special nature and role in the ecosystem.

A recently completed study by Defenders of Wildlife ranked twenty-one United States ecosystems as the nation's most endangered; California's native grasslands ranked as the fifth most endangered ecosystem (Noss and Peters, 1995). Other studies have found that California has lost over 99% of its native grasslands, including 90 percent of the north coastal bunchgrass (Sierra Club, 2004, Noss and Peters, 1995). The loss of coastal terrace prairie has continued over the years due to development, conversion of habitat to agricultural uses, exotic weed invasion, habitat fragmentation, and erosion. The loss of coastal terrace prairie habitat over time has not been quantified, but is considered significant by researchers in the field. Thus, the available evidence demonstrates that coastal terrace prairie is a rare habitat.

The California Department of Fish and Game has identified coastal terrace prairie as rare habitat. Additionally, other local governments in the Central Coast area of California have recognized the need to protect remaining coastal terrace prairie habitat. The City of Carmel-by-the-Sea has included coastal terrace prairie as an Environmentally Sensitive Habitat Area (ESHA) under the

City's General Plan/Coastal Land Use Plan that includes policies for protection of the City's coastal environmental resources.

Furthermore, The County of Monterey, in their General Plan Draft Coastal Element, has currently proposed listing coastal terrace prairie as an Environmentally Sensitive Habitat Area:

“...protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.”

Coastal terrace prairie on the project site is characterized by the presence of California oatgrass (*Danthonia californica*), a perennial native grass. Coastal terrace prairie on the site also includes other grass species such as purple needlegrass, rattail fescue, quaking grass, tall fescue and rattlesnake grass, as well as non-grass species such as western rush, sun cups, soap plant, annual lupine, California poppy, among others. Field surveys of the site during did not confirm the presence of the plant species Gairdner's yampah (*Perideridia gairdneri*), during a Rare Plant Survey conducted during the summer of 2002. (Biotic Resources Group, 2003).

As discussed above, coastal terrace prairie is a rare and especially valuable native grassland habitat that supports several rare and endangered species and plays an important role in the ecosystem. The importance of coastal terrace prairie habitat is widely recognized by both government and non-government organizations, including the California Department of Fish and Game. As such coastal terrace prairie is a sensitive habitat as defined in LUP Policy 7.1, which states: “Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting “rare and endangered” species as defined by the State Fish and Game Commission...” Therefore, the coastal terrace prairie located onsite meets the definition of sensitive habitat under Policy 7.1.

LCP policy 7.3, Protection of Sensitive Habitats, prohibits land uses and development that would have a significant adverse impact on sensitive habitat areas. Pursuant to LUP Policy 7.4, only resource dependent uses are permitted in areas meeting the LUP definition of sensitive habitat. LUP Policy 7.33 identifies permitted uses in sensitive habitats with rare and endangered species. These permitted uses are limited to: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species. Residential development is not allowable within any sensitive habitat under the County's LCP.

The proposed residence and access road are located in areas identified as coastal terrace prairie, and would destroy approximately 0.7 acres of this sensitive habitat. As such, the proposed development is inconsistent with LUP Policies 7.3, 7.4 and 7.33, which specifically prohibit land uses and development that would have a significant adverse impact on sensitive habitat areas as well as non-resource dependent uses, such as residential development, in sensitive habitat areas.

The Commission notes that the project site is 153 acres in area total, approximately 88 acres of which is coastal terrace prairie habitat. The County record shows no evidence of an analysis of

alternative development sites that would avoid impacts to sensitive habitat. However, as shown on Exhibit 7 there are several alternative development sites on the remaining 61 acres of the site that would allow development to occur without impacting this or other identified sensitive habitat areas, and conform to the requirements of Policies 7.3, 7.4, and 7.33.

### ***Conclusion***

For all of the above-stated reasons, the Commission denies Coastal Development Permit Application A-2-SMC-04-009 because the proposed development is inconsistent with Policies 7.3, 7.4, and 7.33 of the San Mateo County LUP, which require the protection of sensitive habitat areas from significant impacts and prohibit non-resource dependent uses within sensitive habitat areas.

### **4.1.2 Agricultural Resources**

#### ***Applicable LCP Policies***

##### ***5.3 Definition of Lands Suitable for Agriculture***

*Define other lands suitable for agriculture as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.*

##### ***5.6 Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture***

- a. Permit agriculture and agriculturally related development on land suitable for agriculture. Specifically allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and grazing growing, or pasturing livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single family residences.*
- b. Conditionally permit the following uses: (1) single family residences, (2) farm labor housing, (3) multiple family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production and storage, (12) facilities for the processing, storing, packaging, and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.*

*5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture*

- a. Prohibits the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:*
  - (6) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*
  - (7) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;*
  - (8) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;*
  - (9) The productivity of any adjacent agricultural lands is not diminished;*
  - (10) Public Service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.*

*Zoning Code Section 6350. Purpose of the Planned Agricultural District*

*The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:*

- (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,*
- (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,*
- (c) developing available lands not suitable for agriculture before converting agricultural lands,*
- (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*
- (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.*

*Zoning Code Section 6353. Uses Permitted Subject to the Issuance of a Planned Agricultural Permit*

*The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance.*

*Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore.*

*B. On Lands Suitable for Agriculture and Other Lands*  
*1. Single-family residences.*

*Zoning Code Section 6355. Substantive Criteria For Issuance of a Planned Agricultural Permit*

*It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:*

*A. General Criteria*

- 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized.*
- 2. All development permitted on a site shall be clustered.*
- 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.*

*G. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands*

*All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:*

- 1. all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and*
- 2. continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and*

3. *clearly defined buffer areas are developed between agricultural and nonagricultural uses, and*
4. *the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*
5. *public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*

*For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.*

### ***Discussion***

The project site is zoned PAD (Planned Agricultural District), and is currently used for grazing. Although the site does not contain prime soils, it is considered “other lands suitable for agriculture” as defined under LUP Policy 5.3 because it supports grazing.

As stated in County Zoning Code Section 6350, the purpose of the PAD zoning district is to preserve and foster existing and potential agricultural operations in order to keep the maximum amount of agricultural land in agricultural production. Section 6350 requires implementation of the following techniques to achieve the objective of preserving and fostering existing and potential agriculture within agricultural lands:

- (a) *establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,*
- (b) *limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,*
- (c) *developing available lands not suitable for agriculture before converting agricultural lands,*
- (d) *assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*
- (e) *assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.* [Emphasis added.]

Accordingly, the principal permitted use of PAD-zoned lands is agriculture and agriculturally related development, and conditional uses such as residential development that would convert agricultural lands to non-agricultural uses are prohibited unless all of the criteria specified in Zoning Code Section 6355 as follows are satisfied:

*Section 6355. Substantive Criteria For Issuance of a Planned Agricultural Permit*

*It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:*

*A. General Criteria*

- 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized.*
- 2. All development permitted on a site shall be clustered.*
- 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.*

*F. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands*

*All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:*

- 1. all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and*
- 2. continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and*
- 3. clearly defined buffer areas are developed between agricultural and nonagricultural uses, and*
- 4. the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*
- 5. public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*

*For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would*

*complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.* [Emphasis added.]

These requirements are also stated in LUP Policy 5.8 (b), which only allows conditionally permitted use such as residential development on Lands Suitable for Agriculture Designated as Agriculture, when all of the conditions described in Policy 5.10 are satisfied.

As stated above, the purpose of the PAD zoning designation is to maintain the maximum amount of agricultural land in agricultural production. As such, the policies of the San Mateo County LCP strictly limit the conversion of agricultural lands to non-agricultural uses. Conversion of agricultural lands is prohibited unless the applicant provides factual evidence demonstrating that the development would meet the goals of the PAD zoning district and all of the criteria specified in LUP Policy 5.10.a and Zoning Code Section 6355 are satisfied. In this case and as further discussed below, the proposed residential development does not meet the requirements of the LCP because the applicant has not provided evidence demonstrating that the development would maintain the maximum amount of agricultural land in agricultural production and because the criteria required to allow the conversion of agricultural land that are specified in LUP Policy 5.10.a and Zoning Code Section 6355 have not all been met.

For example, among the criteria required to be met to allow residential development on lands suitable for agriculture are Zoning Code Section 6355.A.1 and 6355.A.2, which state that: (1) the encroachment of all development upon land which is suitable for agriculture shall be minimized, and (2) all development permitted on a site shall be clustered. Contrary to these requirements, the proposed development is not sited close to existing roads or development as required to minimize encroachment into agricultural lands, but instead is proposed to be located approximately 2,000 feet from Tunitas Creek Road and approximately 3,000 feet from Highway 1, the two public roads bordering the site, and would not be clustered with the existing residential development along Tunitas Creek Road or the existing cellular facility near Highway 1 on the applicants' property. Thus, the proposed development would not minimize encroachment onto lands suitable for agricultural use and is not clustered with existing development either on or adjacent to the project site, in conflict with the requirements of the certified LCP.

Another of the substantive criteria required to be met for approval of residential development on lands suitable for agriculture is provided in Zoning Code Section 6355.F.1, which states that all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable. Although the majority of the project site supports grazing and is therefore suitable for agriculture as defined by the LCP, certain areas of the 153-acre site do not support grazing, including the non-native woodlands along Highway 1. This is also the area of the site where the existing cellular facility is located and, based on Commission staff's review of the project plans, aerial photographs, and site visit, appears to be a feasible alternative to the development site proposed by the applicant. The applicant has not provided evidence demonstrating that locating a residential development in this area of the site is infeasible. As such, all agriculturally unsuitable lands on the parcel have not been developed or determined to be undevelopable as required in order to allow the proposed development under the certified LCP.



The Commission also notes that because the economic value of the proposed residential development has significant potential to exceed the economic value of the site for grazing, the proposed development would effectively convert the entire site from agricultural use to residential use, rendering continued agricultural use of the site subordinate to the residential development. Thus, the fact that the proposed development would convert only 0.01% of the site as noted by the County does not convey the full extent to which the agricultural land use potential of the site as well as adjacent agricultural lands would be negatively impacted.

Inherent conflicts exist between agricultural land uses and residential development. In addition to the direct loss of agricultural lands in the areas occupied by physical development such as residential buildings, roads, yards, landscaping, conflicts may also occur between residential development and continued agricultural activities in the undeveloped areas adjacent to residential development. For example, dust, noise, odors, and chemicals commonly associated with commercial agricultural activities may be a nuisance or hazard to residents. As such, residential development in agricultural areas often leads to restrictions on agricultural activities that further reduce the viability of continued agricultural use of adjacent lands. In order to minimize such conflicts, County of San Mateo LUP Policy 5.10(a)(3) requires clearly established buffers between agricultural and non-agricultural uses, and Zoning Regulation Section 6355 A.1 and 2 require encroachment of all development upon lands suitable for agriculture to be minimized and require non-agricultural development on PAD zoned lands to be clustered.

Contrary to these requirements of the LCP, the proposed development: (1) is not clustered near existing development on adjacent parcels along Tunitas Creek Road or near the existing cellular facility adjacent to Highway 1, (2) does not minimize encroachment upon lands suitable for agriculture, and (3) does not establish a clearly defined buffer between agricultural and non-agricultural uses. Instead, the proposed development would be located approximately 2,000 feet from the nearest existing development and public road requiring the construction of a 3,000-foot long road dividing undeveloped grazing lands and interfering with continued agricultural use of the site. As such, the proposed development would exacerbate the conflicts inherent between the proposed residential development and continued agricultural use of the site.

The criteria for the approval of conditionally permitted non-agricultural uses on agricultural lands are designed to maintain the maximum amount of agricultural lands in agricultural production by, among other means, minimizing conflicts between conditionally permitted non-agricultural development and adjacent agricultural uses and by preventing fragmentation of agricultural lands. Siting residential development near existing development and roads minimizes the potential for such conflicts by maintaining a larger area of contiguous land available for agricultural use, in this case, cattle grazing, and reduces the potential for conflict with adjacent residential areas by maintaining a clearly defined buffer between agricultural lands and areas developed for residential use.

### ***Conclusion***

For all of the above-stated reasons, the Commission finds that the proposed development is inconsistent with the policies of the certified LCP, which restrict non-agricultural development on agricultural lands and promote the preservation of agricultural uses on agricultural lands.

#### **4.1.2 Visual Resources**

##### ***Applicable LCP Policies***

##### ***8.6 Location of New Development***

- b. Require that new development be located in a portion of a parcel where the development is (1) least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner, which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.*

*Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.*

##### ***8.18 Alteration of Landforms; Roads and Grading***

- d. Require that development be located and designed to conform with, rather than change landforms. Minimize the alteration of landforms as a consequence of grading, filling, or other development.*
- e. To the degree possible, ensure the restoration of pre-existing topographic contours after any alteration by development, except to the extent necessary to comply with the requirements of Policy 8.18.*
- f. Control development to avoid the need to construct access roads, visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that the use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.*

#### ***Discussion***

The project site is located adjacent to Highway 1 within a State and County designated scenic corridor. The rural portion of the San Mateo Coast contains outstanding scenic qualities, with extensive open space views of the coast, agricultural lands, and the slopes of the Santa Cruz Mountains.

The project site is located on a south and west-facing hillside within a LCP designated scenic corridor just inland of Highway 1 (a State and County designated Scenic Road) (Exhibit 1). The site is surrounded by extensive scenic open space and agricultural land. The project site includes significant areas of open space, which are currently used for grazing activities. As mentioned above, the site also contains a cellular facility, located along the western boundary of the site near Highway 1. The cellular facility was installed pursuant to a conditional use permit, approved by the County in June 2001. The facility occupies an approximately 10-foot by 20-foot area, at the end of a small access road from the highway. As shown on Exhibit 2, the cell facility is located approximately 100 feet east of Highway 1, and is effectively screened from view from Highway 1 by stands of Monterey Cypress and Eucalyptus trees.

The proposed development must comply with the requirements of LUP Policies 8.5 and 8.17, which protect the scenic quality of the site as viewed from Highway 1. As discussed above, these policies require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Furthermore, LCP Policy 8.17, Alteration of Landforms; Roads and Grading, requires that development be located and designed to conform with, rather than change landforms and minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development. This policy further requires that development be controlled to avoid the need to construct access roads visible from state and County Scenic Roads and require the shared use of existing private roads whenever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall also be located and designed to minimize visibility from State and County Scenic Roads, and built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

As discussed in the findings for the substantial issue analysis, the approved project locates the proposed residence in an isolated area in the northeast corner of the parcel, necessitating the construction of a long access road. The proposed access road transects the south facing slopes from west to east, connecting the location of the proposed residence with State Highway 1, located adjacent to the western boundary of the parcel. The proposed road would generally following the natural topography and would be located on slopes greater than 15%.

According to the County staff report, the residence itself will not be visible from either Highway 1 or Tunitas Creek Road to the southeast of the property. However, based on Coastal Commission staff review of available photographs and topographic maps of the property, the access road transecting the site appears visible from portions of Highway 1, and from areas to the south of the site. Additionally, the proposed road would require extensive grading (approximately 5,280 cubic yards).

The project site contains developable areas adjacent to existing development on and adjacent to the site and outside of the view shed both near Highway 1 and near Tunitas Creek Road. Existing development in both of these locations is screened from view from the highway by

landforms and existing vegetation. As such, siting development closer to existing roads and development would eliminate the need to construct a long access road and reduce or eliminate the visual impacts of the development as proposed by the applicant. Concentrating development close to existing roads and development would serve to further preserve the visual and open space qualities of the undeveloped hillsides of the 153-acre parcel. Therefore, for all of the above stated reasons, the proposed development does not conform to the requirements of LUP Policies 8.5 and 8.17.

### ***Conclusion***

For all of the above-stated reasons, the Commission finds that the proposed development is inconsistent with Policies 8.5 and 8.17 of the LUP, which address the visual resources.

## **4.2 Alternatives**

Denial of the proposed permit will not eliminate all economically beneficial or productive use of the applicants' property or unreasonably limit the owner's reasonable investment backed expectations of the subject property. Denial of this coastal development permit application would still leave the applicants available alternatives to use the property in a manner that would be consistent with the policies of the LCP.

The applicants can use the approximately 153-acre parcel for grazing or other agricultural uses specified as principal permitted uses in the PAD zone, whether for an agricultural operation conducted by the owners themselves, or through a lease to a rancher who could use the land in combination with other contiguous grazing lands in nearby areas. After securing a coastal development permit from the County, the applicants could also use the approximately 61-acre portion of the property outside the coastal terrace prairie habitat for any conditionally permitted non-agricultural use if compatible with the sensitive habitat, agriculture and visual resource, and other applicable policies of the certified LCP. For example, a feasible alternative to the proposed development includes: siting the development at a different location outside the coastal terrace prairie habitat where the development would not have significant adverse impacts to sensitive habitats, would be clustered near existing development significantly shorting the required access road, minimizing visual impacts, minimizing encroachment upon lands suitable for agricultural, and lessening potential conflicts with continued or renewed agricultural use of adjacent agricultural lands. All of the above-referenced uses would allow the owner economic use of the subject property.

Therefore, the Commission finds that feasible alternatives to the proposed project exist for the applicants to make economically beneficial or productive use of the property in a manner that would be consistent with the policies of the certified LCP.

## **4.3 California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of

the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. For the reasons described in the Commission findings above, the Commission finds that there are feasible mitigation measures and alternatives that would substantially lessen the significant adverse impacts of the development on the environment. The proposed development is located on sensitive habitat and is located in a remote area of the 153-acre parcel far from existing roads and development. Feasible alternatives to the proposed development include: (1) agriculture, which is the principal permitted land use of the parcel under the County's zoning ordinance, such as grazing, whether for an agricultural operation conducted by the owners themselves, or through a lease to another rancher who could utilize the land in combination with other contiguous grazing lands in nearby areas; and (2) a conditionally permitted use, such as residential development, if sited and designed in a manner that conforms to all applicable policies of the LCP, i.e., outside the coastal terrace prairie habitat where the development would not have significant adverse impacts to sensitive habitats, clustered near existing development, minimizing visual impacts, minimizing encroachment upon lands suitable for agriculture, and lessening potential conflicts with continued or renewed agricultural use of adjacent agricultural lands. The Commission thus finds that the proposed project cannot be found to be consistent with the requirements of the Coastal Act and does not conform to the requirements of CEQA.

## **Appendix A**

### **Substantive File Documents**

Biotic Resources Group, *Waddell Residence, Tunitas Creek Road, San Mateo County, Biological Assessment*, June 13, 2002.

Biotic Resources Group, *Waddell Residence, Tunitas Creek Road, San Mateo County, Rare Plant Survey for Gairdner's Yampah*, April 10, 2003.

California Department of Fish and Game, List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database, May 2002 edition.

California Native Plant Society, Santa Cruz Chapter, Plant Communities of Santa Cruz County, Coastal Terrace Prairie, <http://www.cruzcnp.org/CoastalTerracePrairie.html>.

Clark, Mathew R., *An Archaeological Reconnaissance of the Waddell Property, 21960 South Cabrillo Highway, Tunitas, San Mateo County, California*, April 2002.

Hayes, Grey. 2003. Conservation Strategy for Coastal Prairie Conservation

Holland, Robert F., Ph. D., California Department of Fish and Game, October 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California.

Natural Resources Conservation Service, Letter to Kerry Burke, Report on Site Visit to Waddell Property, May 16, 2002.

Reed Noss and Robert L. Peters, *Endangered Ecosystems: A Status Report on America's Vanishing Habitat and Wildlife*, (Washington, D.C.: Defenders of Wildlife, 1995).

Stohlgren, T. J., D. Binkley, G. W. Chong, M. A. Kalkhan, L. D. Schell, K. A. Bull, Y. Otsuki, G. Newman, M. Bashkin, and Y. Son. 1999. *Exotic plant species invade hot spots of native plant diversity*. Ecological Monographs **69**:25-46.

"The State of Disappearing Species and Habitat: A Sierra Club Report." Sierra Club. 19 May 2004.

66-33

TAX CODE AREA

# PROJECT PARCEL

△ PARCEL MAP VOL 49/94-95

OCEAN

PACIFIC

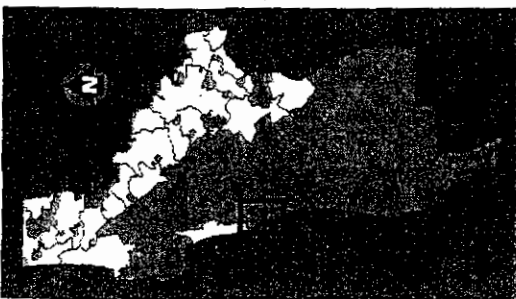
County Planning Commission Meeting

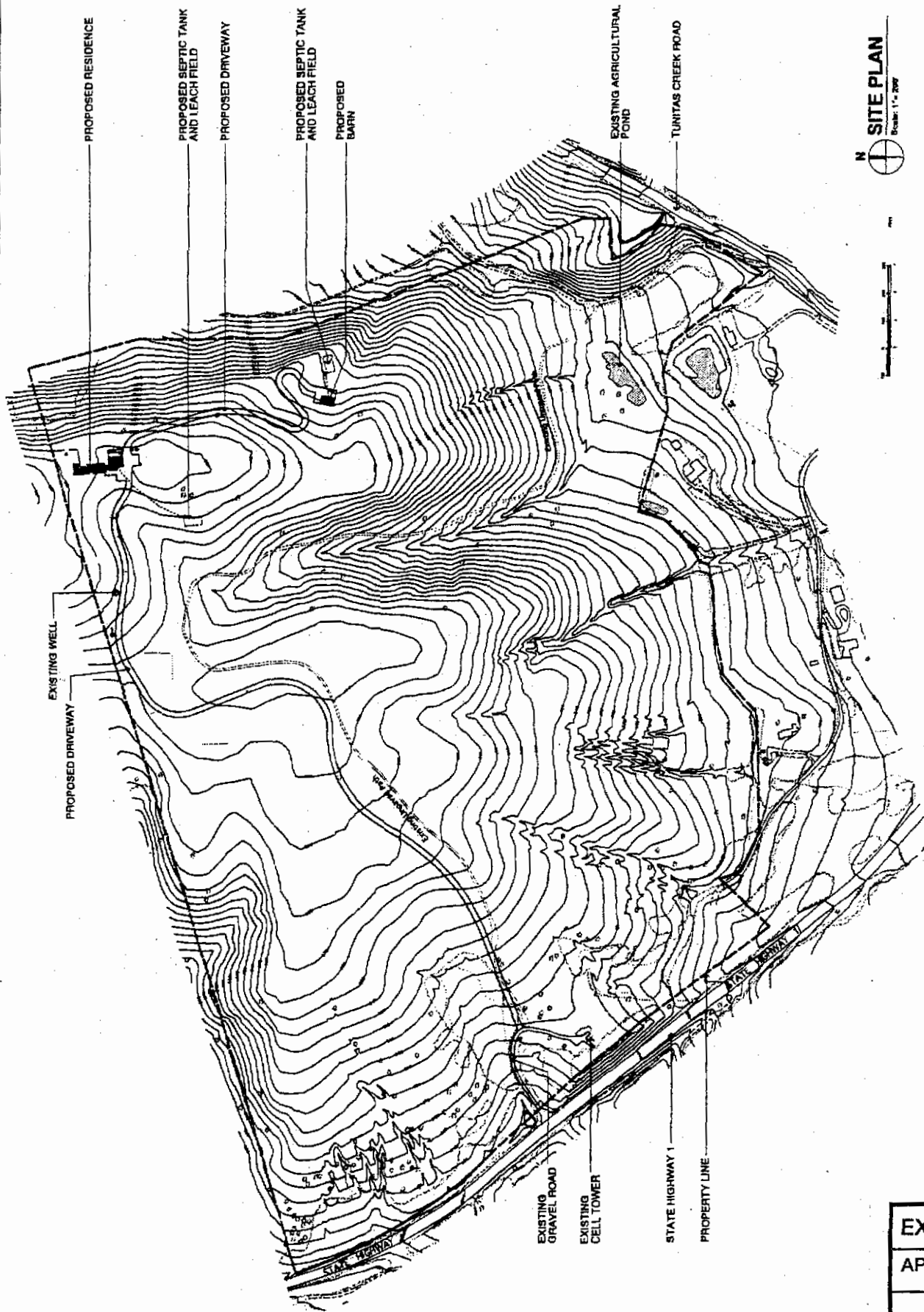
Piechota

PLN 2002-00375

Attachment: B

EXHIBIT NO. 1  
APPLICATION NO.  
A-2-SMC-04-009  
WADDELL





**SITE PLAN**  
 Scale: 1" = 200'

# County Planning Commission Meeting

**Piechota**

**PLN 2002-00375**

Attachment: C.1

EXHIBIT NO. 2

APPLICATION NO.  
 A-2-SMC-04-009

WADDELL





**ENVIRONMENTAL  
SERVICES  
AGENCY**

Agricultural  
Commissioner/ Sealer of  
Weights & Measures

Animal Control

Cooperative Extension

Fire Protection

LAFCo

Library

Parks & Recreation

Planning & Building

**Commissioners:**

David Bomberger

Steve Dworetzky

Ralph Nobles

Jon Silver

William Wong

Please reply to:

Sara Bortolussi  
(650) 363-1839

June 14, 2004

## PROJECT FILE

Daniel Piechota  
Sagan Piechota Architecture  
315 Linden Street  
San Francisco, CA 94102

EXHIBIT NO. 3

APPLICATION NO.  
A-2-SMC-04-009

WADDELL

Dear Mr. Piechota:

**Subject:** File Number PLN2002-00375  
**Location:** Cabrillo Highway, Half Moon Bay  
**APN:** 066-330-160

On June 9, 2004, the San Mateo County Planning Commission considered your request for a Planned Agricultural District Permit and Coastal Development Permit, pursuant to Sections 6353 and 6328.4, respectively of the San Mateo County Zoning regulations, and Architectural Review pursuant to the State Streets and Highways Code, to construct a new 7,650 sq. ft. residence, a 3,000 sq. ft. agricultural barn, location of two septic systems, conversion of an agricultural well to a well suited for both agricultural and domestic purposes, installation of a water tank for fire suppression, as well as a Grading Permit, pursuant to Section 8600 of the San Mateo County Ordinance Code for the new access road which involves approximately 5,280 cubic yards of cut and fill and to allow for gully repair on a 153 acre parcel located off Cabrillo Highway near Tunitas Creek Road in the unincorporated Half Moon Bay area of San Mateo County. This permit is appealable to the California Coastal Commission.

Based on information provided by staff and evidence presented at the hearing, the Planning Commission certified the Negative Declaration, approved the Planned Agricultural District Permit, Architectural Review and Grading Permit, made the findings and adopted conditions of approval as attached.

Any interested party aggrieved by the determination of the Planning Commission has the right of appeal to the Board of Supervisors within ten (10) business days from such date of determination. The appeal period for this matter will end at 7:00 p.m. on Monday, June 28, 2004.

This permit approval is appealable to the California Coastal Commission. Any aggrieved person who has exhausted local appeals may appeal this decision to the

**PLANNING COMMISSION**

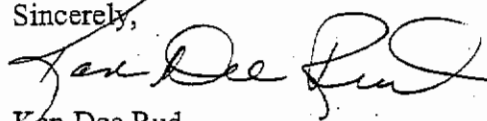
455 County Center, 2<sup>nd</sup> Floor • Redwood City, CA 94063 • Phone (650) 363-4161 • FAX (650) 363-4849

Daniel Piechota  
June 14, 2004  
Page 2

California Coastal Commission within 10 working days following the Coastal Commission's receipt of this notice. Please contact the Coastal Commission's North Central Coast District Office at (415) 904-5260 for further information concerning the Commission's appeal process. The County and Coastal Commission appeal periods run consecutively, not concurrently, and together total approximately one month. A project is considered approved when these appeal periods have expired and no appeals have been filed.

If you have questions regarding this matter, please contact the Project Planner listed above.

Sincerely,



Kan Dee Rud  
Planning Commission Secretary  
Pcd0609o\_7krwaddell.doc

cc: Department of Public Works  
Building Inspection  
Environmental Health  
CDF  
Assessor  
California Coastal Commission  
Keith and Cynthia Waddell  
Kerry Burke  
Jack Olsen, San Mateo County Farm Bureau  
Lennie Roberts, Committee for Green Foothills

County of San Mateo  
Environmental Services Agency  
Planning and Building Division

**FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN2002-00375

Hearing Date: June 9, 2004

Prepared By: Sara Bortolussi, AICP, Project Planner

Adopted By: Planning Commission

**FINDINGS**

**Regarding the Environmental Review, Found:**

1. That the Negative Declaration is complete, correct and adequate, and prepared in accordance with the California Environmental Quality Act and applicable State and County guidelines.
2. That, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public hearing, there is no substantial evidence that the project, if subject to the mitigation measures contained in the Negative Declaration, will have a significant effect on the environment.
3. That the Negative Declaration reflects the independent judgment of San Mateo County.
4. That the mitigation measures identified in the Negative Declaration, agreed to by the applicant, placed as conditions on the project, and identified as part of this public hearing, have been incorporated into the Mitigation Monitoring and Reporting Plan in conformance with California Public Resources Code Section 21081.6.

**Regarding the Coastal Development Permit, Found:**

5. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.

6. That the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program.

Regarding the Planned Agricultural District Permit. Found:

7. That the proposed project, as described in the application and accompanying materials, complies with all applicable criteria for issuance of a Planned Agricultural District Permit contained in Section 6355 of the Zoning Regulations.

Regarding the Architectural Review. Found:

8. That the proposed project is in compliance with the architectural design standards for the Cabrillo Highway State Scenic Corridor.

Regarding the Grading Permit. Found:

9. That the granting of the permit will not have a significant adverse impact on the environment.
10. That the project conforms to the criteria of the chapter including the standards referenced in Section 8605.
11. That the project is consistent with the General Plan.

**CONDITIONS OF APPROVAL**

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission on June 9, 2004. Minor revisions or modifications to the project may be approved by the Planning Director if they are consistent with the intent of and in substantial conformance with this approval.
2. The Coastal Development Permit and Planned Agricultural District Permit are valid for one year from the date of approval, until June 28, 2005, at or before which the applicant shall be issued a building permit. Any extension requests shall be submitted in writing at least sixty (60) days prior to the expiration date, with the applicable extension fee paid.

Daniel Piechota

June 14, 2004

Page 5

3. The applicant shall apply for and be issued a building permit prior to the start of construction and develop in accordance with the approved plans as well as install all structures to current building codes.
4. The applicant is required to monitor the noise level at the site so that the proposed construction activity will not exceed levels and hours established by the County Noise Ordinance.
5. The applicant shall submit color and material samples for the proposed residence and barn, as approved, to the Planning Division prior to the issuance of a building permit. All colors and materials shall blend with the vegetative colors of the site.
6. A building inspector will check the approved colors in the field prior to a final on the building permit.
7. The applicant shall adhere to all recommendations in the geological reports prepared by Sigma Prime Geosciences regarding roadway alignment and gully repair. These reports shall be submitted to the Building Inspection Section in conjunction with any applications for building permits to be reviewed and approved by the County Geotechnical Section.
8. The applicant shall prepare an erosion and sediment control plan for review and approval by the Planning Division prior to the issuance of any grading permits or building permits for construction. The plan shall comply with all recommendations in the geological reports prepared by Sigma Prime Geosciences. At a minimum, the use of fiber rolls, straw mats, silt fences and hay bales shall be used. The erosion control plan shall clearly delineate the types of measures to be used and the location of where the measures will be placed, as well as a sectional drawing showing how the measures will be installed. All erosion control devices shall be installed prior to any grading activities on site.
9. The applicant shall adhere to all recommendations presented in the *Gully Assessment and Stabilization Plan Phase I* as prepared by Sigma Prime Geosciences. The applicant's engineer of record shall oversee and confirm to the Planning Division, in writing, that all such measures have been implemented as recommended. Any revisions shall be subject to staff approval.
10. Prior to roadway and residential development, conduct a summer survey for Gairdner's yampah. If the species is found nearby, impacting development shall be relocated to avoid impacts. If redesign is not feasible, a salvage and relocation program shall be implemented,

moving the plants to another suitable location on the property. Salvage shall occur when plants are in their winter dormancy (i.e., December-January), and shall be carried out or overseen by the applicant's biologist.

11. Prior to driveway improvements, the biologist shall identify prairie areas of high native plant diversity and design driveway improvements to minimize impacts to these areas.
12. The applicant shall install, and staff shall confirm such installation, plastic, protective fencing adjacent to high quality prairie areas prior to residential and driveway construction and other grading activities. The applicant shall ensure that protective fencing is maintained until driveway and residential construction work is complete.
13. As compensation for unavoidable impacts to *0.7 acres* of coastal terrace prairie, the applicant shall continue to implement a rotational grazing program that maintains the remaining prairie habitat on the property and encourages the growth of native perennial grasses, particularly California oatgrass (*Danthonia californica*) and purple needlegrass (*Nassella pulchra*). Implement the program in a manner compatible with gully and erosion repair work, such as restricting domesticated grazing animals (e.g., cattle and/or horses) from erosion treatment areas.
14. Six trees must be replanted on site to mitigate for the six removed during the driveway alignment. The replacement trees shall be a minimum 10-gallon size stock, clearly delineated on a landscape plan which shall also include the trees and vegetation required to screen the barn, and must be replanted on site prior to a building permit final.
15. Implement erosion control measures during and following construction to avoid deposition of sediment into the pond. Measures should include installation and maintenance of perimeter silt fencing and post-construction erosion control seeding. Native grasses such as the purple needlegrass shall be used for the native grass seeding applied to all disturbed areas. Utilize plugs of California oatgrass, a deep-rooted perennial plant species, in the erosion repair/revegetation program. If erosion control matting is used, choose the larger size mesh (e.g., 0.75" x 1.5"), single-layer type mats to reduce potential for snake entanglement. The applicant's biologist shall oversee and confirm to staff, in writing, that these measures have been implemented.
16. Schedule construction to take place between August 1 and February 1, outside the breeding season of the shrike or have a qualified biologist conduct pre-construction surveys no more than thirty (30) days prior to construction to determine if shrikes are nesting within 300 feet of the work areas. If shrikes are nesting in this area, postpone construction until all young are fledged, as determined by a qualified biologist.

17. The applicant shall conduct the gully repair program construction during the dry season, generally May to October, when the California red-legged frog and the San Francisco garter snake are unlikely to be in the gullies.
18. The applicant shall consult with the U.S. Fish and Wildlife Service for technical advice on concurrence that the project is not likely to adversely affect the San Francisco garter snake and California red-legged frog.
19. The applicant shall submit copies of the geotechnical investigation prior to the issuance of a grading or building permit for review and approval by the San Mateo County Geotechnical Section. The geotechnical consultant shall observe and approve all grading work on site.
20. The applicant shall submit a stormwater management plan at the time of application for a building permit, which delineates permanent stormwater controls showing how the additional runoff due to increased impervious surfaces will be controlled on site to be in place throughout the grading, construction and life of the project. The plan shall show how additional runoff will be controlled on site and shall be installed prior to any grading or construction on site.
21. The applicant shall apply for septic system permits with the Environmental Health Division prior to the issuance of building permits. The application shall include a site plan showing the location of all structures, existing well and proposed leachfields.
22. The applicant shall submit a landscape plan for review and approval by the Planning Division prior to the issuance of a building permit. The landscape plan shall include vegetation that will be planted in the vicinity of the proposed agricultural barn and help screen it from view along Tunitas Creek Road.
23. If during the proposed construction project any such evidence of historic or prehistoric resources is uncovered or encountered, all excavations within 10 meters/30 feet should be halted long enough to: (1) call in a qualified archaeologist to assess the situation and propose appropriate measures and (2) to contact the San Mateo County Planning Division for guidance on how to proceed.
24. If plans change such that the southeast corner of the Waddell property will be impacted by development that may affect the prehistoric archaeological site, the site should be recorded and plans reviewed to assess whether the site will be adversely affected.

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25. All new utility lines to the proposed project shall be installed underground from the nearest existing utility pole.
26. There shall be no residential occupancy of the barn.

Building Inspection Section

27. Two separate permits shall be required: one for the house and one for the barn.
28. Both structures shall be provided with automatic fire sprinklers. These permits must be issued prior to or in conjunction with the building permit.
29. A site drainage plan will be required which can demonstrate how roof drainage and site runoff will be directed to an approved disposal area.
30. A driveway plan and profile will be required.
31. Sediment and erosion control measures shall be installed prior to beginning any earthwork. These controls shall be maintained through the entire project and permanent measures shall be installed prior to finalizing the permit.
32. Water tanks need to be shown on the plans.

Department of Public Works

33. For the building permit: The applicant shall submit a driveway "plan and profile" to the Department of Public Works, showing the driveway access to the residence and barn (garage slab/parking area) complying with County standards for driveway slopes (not to exceed 20%). When appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage and shall terminate in a turnaround acceptable to the applicable Fire District.
34. For the building permit: Should any work be required in the Highway 1 right-of-way, a CalTrans encroachment permit will be required prior to beginning work. A copy of the issued permit shall be provided to the County Building Inspection Section prior to the issuance of the building permit.



35. For the building permit: Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance #3277.
36. For the grading permit: At the completion of work, the engineer who prepared the approved grading plan shall certify, in writing, that all grading, lot drainage, and drainage facilities have been completed in conformance with the approved plans, as conditioned, and the Grading Ordinance.
37. For the grading permit: It shall be the responsibility of the applicant's engineer to regularly inspect the erosion control measures and determine that they are functioning as designed and that proper maintenance is being performed. Deficiencies shall be immediately corrected.
38. For the grading permit: Erosion and sediment control during the course of this grading work shall be according to a plan prepared and signed by the engineer of record, and approved by the Department of Public Works and the Planning Division. Revisions to the approved erosion and sediment control plan shall be prepared and signed by the engineer.
39. For the grading permit: The engineer who prepared the approved grading plan shall be responsible for the inspection and certification of the grading as required by Section 8606.2 of the Grading Ordinance. The engineer's responsibilities shall include those relating to non-compliance detailed in Section 8606.5 of the Grading Ordinance.
40. For the grading permit: No grading shall commence until the applicant has applied for and been issued a grading permit by the Planning Division of the County of San Mateo.
41. For the grading permit: All grading shall be according to an approved plan prepared by the applicant's registered civil engineer. Revisions to the approved grading plan shall be prepared and signed by the engineer, and shall be submitted to the Department of Public Works and the Planning Division for concurrence "prior" to commencing any work pursuant to the proposed revision.
42. For the grading permit: No grading shall commence until a schedule of all grading operations has been submitted to and reviewed and approved by the Department of Public Works and the Planning Division. The submitted schedule shall include a schedule for winterizing the site. If the schedule of grading operations calls for the grading to be completed in one grading season, then the winterizing plan shall be considered a contingent plan to be implemented if work falls behind schedule. The applicant shall submit monthly

updates of the schedule to the Department of Public Works and the Planning Division. All submitted schedules shall represent the work in detail and shall project the grading operations through completion.

43. For the grading permit: Prior to the issuance of the grading permit, the applicant shall submit, to the Department of Public Works for review and approval, a plan for any off-site hauling operations. This plan shall include, but not be limited to, the following information: size of trucks, haul route, disposal site, dust and debris control measures, and time and frequency of haul trips. As part of the review of the submitted plan, the County may place such restrictions on the hauling operation as it deems necessary.
44. For the grading permit: No grading shall be allowed during the winter season (October 15 to April 15) to avoid potential soil erosion unless approved, in writing, by the Planning Administrator. The applicant shall submit a letter to the Planning Division, at least, two (2) weeks prior to commencement of grading stating the date when grading will begin.

#### San Mateo County Fire

45. Access roads will conform to the standards of the San Mateo County Department of Public Works.
46. All buildings that have a street address shall have the number of that address on the building, mailbox, or other type of sign at the driveway entrance in such a manner that the number is easily and clearly visible from either direction of travel from the street. An address sign shall be placed at each break of the road where deemed applicable by the San Mateo County Fire Department. Numerals shall be contrasting in color to their background and shall be no less than 4 inches in height, and have a minimum 1/2-inch stroke.
47. Maintain around and adjacent to such buildings or structures a fuelbreak/firebreak made by removing and clearing away flammable vegetation for a distance of not less than 30 feet and up to 100 feet around the perimeter of all structures, or to the property line, if the property line is less than 30 feet from any structure.
48. All dead-end roadways shall be appropriately marked to standards of the Department of Public Works.
49. The applicant shall submit a driveway "plan and profile" to the Department of Public Works, showing the driveway access to the parcel (garage slab) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line) being the same elevation as the center of the access roadway. When

appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for both the existing and the proposed drainage patterns and drainage facilities.

50. Because of limited access into your property, the San Mateo County Fire Department is requiring the installation of a Knox Box or Knox Padlock to allow rapid response of emergency vehicles onto your property in case of a fire or medical emergency. For an application or further information, please contact the Fire Protection and Planning Office at 650/573-3846.
51. All propane storage tanks shall be located with respect to buildings or adjoining property lines. The placement and orientation of tanks shall be so that the ends of the tank do not point in the direction of surrounding structures. Minimum setback distances from property lines or structures will be determined by the size of tank(s) that are being installed: less than 125 gallons - 5 feet; 125 gallons to less than 500 gallons - 10 feet; 500 gallons to less than 2,000 gallons - 25 feet; 2,000 gallons or more - 50 feet). The minimum distance a LPG tank may be installed from a flammable liquid fuel tank is 20 feet.
52. The applicant shall submit, for review by the Department of Public Works and the Fire Department having jurisdiction, a plan and profile of both the existing and the proposed access from the nearest "publicly" maintained roadway to the proposed building site.
53. No dead-end road or cul-de-sac shall exceed 1,000 feet in length.
54. All roof assemblies shall have a minimum CLASS B fire resistive rating and be installed in accordance with the manufacturer's specifications and current Uniform Building Code.
55. Smoke detectors are required to be installed in accordance with Section 310.9 of the Uniform Building Code. This includes the requirement for hardwired, interconnected detectors equipped with battery backup and placed in each sleeping room in addition to the corridors and on each level of the residence.
56. Any chimney shall have installed onto the opening thereof a galvanized, approved spark arrester of a mesh not larger than one-half of an inch.
57. An approved automatic fire sprinkler system meeting the requirements of NFPA-13D is required to be installed in your project. Plans shall include attached garages and detached garages at or above 1,000 sq. ft. Plans shall be designed by a licensed sprinkler system designer and submitted to the San Mateo County Building Inspection Section for review

and approval by the San Mateo County Fire Department. Building plans will not be reviewed until the required sprinkler plans are received by the County Building Inspection Section.

58. An iron standpipe/hydrant with a 2 1/2" National Hose Thread outlet with a valve shall be mounted not less than 2 feet aboveground level and within 5 feet of the main access road or driveway, and not less than 30 feet from any portion of any building, nor more than 150 feet from the main residence or building.
59. Remove that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe or any portion of the tree which overhangs the roof assembly or is within 5 feet of any portion of the structure.
60. All dead-end roadways shall be terminated by a turnaround bulb of not less than 80 feet in diameter.
61. Because of the fire flow and automatic sprinkler requirements for your project, an on-site water storage tank is required. Based upon building plans submitted to the San Mateo County Building Inspection Section, the San Mateo County Fire Department has determined that a minimum of 7,409 gallons of fire protection water will be required for the main residence and 2,200 gallons of fire protection water for the barn, in addition to the required domestic water storage. Plans showing the tank(s) type, size, location and elevation are to be submitted to the San Mateo County Fire Department for review and approval.
62. The water storage tank(s) shall be so located as to provide gravity flow to a standpipe/hydrant, or an approved pump/pressure system shall be provided to produce a minimum of 20 pounds per square inch (psi) residual pressure. Plans and specifications shall be submitted to the San Mateo County Building Inspection Section for review and approval by the San Mateo County Fire Department.

#### Environmental Health Division

63. As part of the planning approval, the applicant shall obtain approval to convert the existing agricultural well to a domestic water source.
64. Prior to the building permit, the applicant shall submit septic design plans, application and fees to Environmental Health. Subject plans shall include the location of the soil percolation test locations, percolation rate for each of the test locations, design of the drainfield and its expansion area.

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65. Prior to the house final, the applicant shall obtain a permit to operate the well as a domestic water source. A storage tank of 1,250 gallons, water meter, filtration equipment (if required) and resample of the water supply will be required prior to the house final.
66. Applicant shall submit a health review fee of \$174.00.

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# APPLICABLE COUNTY OF SAN MATEO LOCAL COASTAL PLAN POLICIES

## AGRICULTURE POLICIES

### 5.3 Definition of Lands Suitable for Agriculture

Define other lands suitable for agriculture as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

### 5.6 Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture

- a. Permit agricultural and agriculturally related development on land suitable for agriculture. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purpose, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single-family residences.
- b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) multi-family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production, and storage, (12) facilities for the processing, storing, packaging and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.

### 5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture

- a. Prohibit the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:

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- (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;
  - (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;
  - (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;
  - (4) The productivity of any adjacent agricultural lands is not diminished;
  - (5) Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.b. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions (3), (4) and (5) in subsection a. are satisfied.
- b. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions (3), (4) and (5) in subsection a. are satisfied.

#### Applicable Zoning Ordinances for Agriculture

#### SECTION 6350. PURPOSE OF THE PLANNED AGRICULTURAL DISTRICT.

The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:

- (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,
- (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable

neighborhood and contribute to the establishment of a stable limit to urban development,

(c) developing available lands not suitable for agriculture before converting agricultural lands,

(d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and

(e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

#### SECTION 6353. USES PERMITTED SUBJECT TO THE ISSUANCE OF A PLANNED AGRICULTURAL PERMIT.

The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance.

Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore.

##### B. On Lands Suitable for Agriculture and Other Lands

1. Single-family residences.
2. Farm labor housing.
3. Multi-family residences if for affordable housing.
4. Public recreation/shoreline access trail (see Section 6355D.3 and
5. Schools.
6. Fire stations.
7. Commercial recreation.
8. Aquacultural activities.
9. Wineries, subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.
10. Timber harvesting, commercial woodlots and log storage, providing that no commercial timber harvesting shall occur within 1,000 feet of any legal dwelling in existence on June 18, 1991, except under the following circumstances:
  - a. Timber harvesting operations for which all permits had been received on or before June 18, 1991, may complete operations in accordance with the terms and conditions of such permits.
  - b. Timber harvesting operations may occur within the 1,000-foot buffer zone with prior written approval of the owner of the



affected dwelling, subject to the prior recordation of the statement specified in Section 6401.5.

- c. Normal forest maintenance may be conducted within the 1,000-foot buffer zone, but shall be limited to: (a) removing dead, dying, or diseased trees and snags; (b) salvaging downed wood; (c) cutting trees for the purposes of developing viewsheds or landscape aesthetics in accordance with other applicable provisions of this Part and of Division VII, San Mateo County Ordinance Code; or (d) clearing for firebreaks, in accordance with requirements of the County Fire Marshal or other applicable fire authority having jurisdiction.

Notwithstanding the above, access roads to the site of timber harvesting operations may be constructed, improved, and used within the 1,000-foot buffer zone. The limitation on harvesting within 1,000 feet of an existing dwelling shall not apply to a dwelling located on the parcel which is proposed for timber harvesting.

For the purpose of this section, the distance from a dwelling shall be measured along the surface of the ground.

11. Onshore oil and gas exploration, production, and storage subject to the issuance of an oil well permit.
12. Facilities for the processing, storing, packaging, and shipping of agricultural products.
13. Uses ancillary to agriculture.
14. Kennels or catteries, subject to a kennel/cattery permit.
15. Scientific/technical research and test facilities, provided a Planned Agricultural Permit shall only be issued for this use upon the following findings:
  - a. That the use is of a low-intensity nature with minimum of permanent construction required, no permanent on-site personnel or permanent on-site vehicles.
  - b. That the nature of the operation requires an open, isolated, and radio frequency interference-free environment.
  - c. That no manufacturing or industrial activities are involved.

#### SECTION 6355. SUBSTANTIVE CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT.

It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350.

In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

A. General Criteria

1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized.
2. All development permitted on a site shall be clustered.
3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.

F. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands

All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:

1. all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and
2. continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and
3. clearly defined buffer areas are developed between agricultural and nonagricultural uses, and
4. the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and
5. public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and

For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.

SECTION 6361. PROCEDURAL CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT.

E. Findings

The County shall make findings with respect to each application for division or conversion of lands in the Planned Agricultural District. Such

findings shall be in writing, based on fact, and shall set forth specific reasons why proposed division or conversion meets or fails to meet all applicable requirements of this ordinance.

## **SENSITIVE HABITATS POLICIES**

### **7.1 Definition of Sensitive Habitats**

Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

### **7.3 Protection of Sensitive Habitats**

- a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.
- b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

### **7.4 Permitted Uses in Sensitive Habitats**

- a. Permit only resource dependent uses in sensitive habitats. Resource dependent uses for riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and habitats supporting rare, endangered, and unique species shall be the uses permitted in Policies 7.9, 7.16, 7.23, 7.26, 7.30, 7.33, and 7.44, respectively, of the County Local Coastal Program on March 25, 1986.
- b. In sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife and State Department of Fish and Game regulations.

## 7.9 Permitted Uses in Riparian Corridors

- a. Within corridors, permit only the following uses: (1) education and research, (2) consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code, (3) fish and wildlife management activities, (4) trails and scenic overlooks on public land(s), and (5) necessary water supply projects.
- b. When no feasible or practicable alternative exists, permit the following uses: (1) stream dependent aquaculture, provided that non-stream dependent facilities locate outside of corridor, (2) flood control projects, including selective removal of riparian vegetation, where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, (3) bridges when supports are not in significant conflict with corridor resources, (4) pipelines, (5) repair or maintenance of roadways or road crossings, (6) logging operations which are limited to temporary skid trails, stream crossings, roads and landings in accordance with State and County timber harvesting regulations, and (7) agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels.

## 7.16 Permitted Uses in Wetlands

Within wetlands, permit only the following uses: (1) nature education and research, (2) hunting, (3) fishing, (4) fish and wildlife management, (5) mosquito abatement through water management and biological controls; however, when determined to be ineffective, allow chemical controls which will not have a significant impact, (6) diking, dredging, and filling only as it serves to maintain existing dikes and an open channel at Pescadero Marsh, where such activity is necessary for the protection of pre-existing dwellings from flooding, or where such activity will enhance or restore the biological productivity of the marsh, (7) diking, dredging, and filling in any other wetland only if such activity serves to restore or enhance the biological productivity of the wetland, (8) dredging manmade reservoirs for agricultural water supply where wetlands may have formed, providing spoil disposal is planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation, and (9) incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

## 7.23 Permitted Uses in Marine and Estuarine Habitats

In marine and estuarine habitats, permit only the following uses: (1) nature education and research, (2) consumptive uses as provided for in the Fish and

Game Code and Title 14 of the California Administrative Code, (3) fishing and (4) fish and wildlife management.

7.26 Permitted Uses

In dune areas, permit only the following uses: (1) education and research, and (2) trails.

7.30 Permitted Uses

- a. Where nesting or roosting exists, permit only education and research activities.
- b. Where nesting or roosting does not exist, permit only the following uses: (1) education and research, (2) limited foot paths, (3) limited recreational rock climbing, (4) road and underground utility construction where no feasible alternative exists, and (5) intake or outfall lines provided that the habitat is not threatened.

7.33 Permitted Uses

- a. Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.
- b. If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the U.S. Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

7.44 Permitted Uses

Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

## **VISUAL RESOURCES POLICIES**

8.5 Location of Development

- a. Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is

least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.

Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.

This provision does not apply to enlargement of existing structures, provided that the size of the structure after enlargement does not exceed 150% of the pre-existing floor area, or 2,000 sq. ft., whichever is greater.

This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation on the parcel. In such cases, agricultural development shall use appropriate building materials, colors, landscaping and screening to eliminate or minimize the visual impact of the development.

- b. Require, including by clustering if necessary, that new parcels have building sites that are not visible from State and County Scenic Roads and will not significantly impact views from other public viewpoints. If the entire property being subdivided is visible from State and County Scenic Roads or other public viewpoints, then require that new parcels have building sites that minimize visibility from those roads and other public viewpoints.

#### 8.17 Alteration of Landforms; Roads and Grading

- a. Require that development be located and designed to conform with, rather than change landforms. Minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development.
- b. To the degree possible, ensure restoration of pre-existing topographic contours after any alteration by development, except to the extent necessary to comply with the requirements of Policy 8.18.
- c. Control development to avoid the need to construct access roads visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation, or convert agricultural soils. In such cases, build new access roads to minimize alteration of existing landforms and natural characteristics.

# San Mateo County Environmental Services Agency

**Planning and Building Division** ■ 455 County Center ■ Redwood City  
California 94063 ■ Planning: 650/363-4161 ■ Building: 650/599-7311 ■ Fax: 650/363-4849

June 29, 2004

2-SMC-02-103

## NOTICE OF FINAL LOCAL DECISION

Pursuant to Section 6328.11.1(f) of the San Mateo County Zoning Regulations

### CERTIFIED MAIL

California Coastal Commission  
ATTN: Susan Craig  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

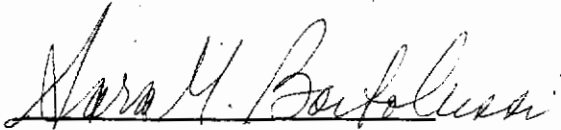
County File No. : PLN2002-00375

Applicant Name: DANIEL PIECHOTA  
Owner Name: WADDELL M KEITH TR

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on **June 9, 2004**. The County appeal period ended on **June 28, 2004**. Local review is now complete.

This permit **IS** appealable to the California Coastal Commission; please initiate the California Coastal Commission appeal period.

If you have any questions about this project, please contact SARA BORTOLUSSI at (650) 363-4161.



SARA BORTOLUSSI  
Project Planner

fplnfinlocdsn

EXHIBIT NO.	5
APPLICATION NO.	
A-2-SMC-04-009	
WADDELL	



**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



**APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name, mailing address and telephone number of appellant(s):

Meg Caldwell

559 Nathan Abbott Way, Owen House, Room 6

Stanford, CA 94305-8610

(650) 723-4057

Zip

Area Code

Phone No.

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

County of San Mateo

2. Brief description of development being appealed:

Construction of a new 7,650 sq.ft. residence, a 3,000 sq.ft. agricultural barn,  
two septic systems, conversion of an agricultural well for both agricultural and  
domestic purposes, installation of a water tank, construct 3,000 ft. access road.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

21960 Cabrillo Highway, Half Moon Bay, San Mateo County, APN: 066-330-160  
Cabrillo Highway near Tunitas Creek Road

4. Description of decision being appealed:

a. Approval; no special conditions: \_\_\_\_\_

b. Approval with special condition:       X      

c. Denial: \_\_\_\_\_

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-2-SMC-04-009

DATE FILED: July 15, 2004

DISTRICT: North Central Coast District

EXHIBIT NO.	6
APPLICATION NO.	
A-2-SMC-04-009 WADDELL	

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning  
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of  
Supervisors

d. ☐ Other

6. Date of local government's decision: June 9, 2004

7. Local government's file number (if any): PLN2002-00375

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Mr. and Mrs. Keith and Cynthia Waddell

2221 Bayhill Court

Half Moon Bay, CA 94019

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Mr. Daniel Piechota

Sagan Piechota Architecture

315 Linden Street, San Francisco, CA 94102

(2)

(3)

(4)

**SECTION IV. Reasons Supporting This Appeal**

**Note:** Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHED.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: \_\_\_\_\_  
Appellant or Agent

Date: \_\_\_\_\_

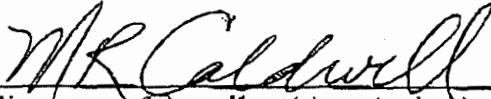
Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)****SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Meg Caldwell

Date: July 15, 2004

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

## Section –IV REASONS SUPPORTING THIS APPEAL

The approved development does not conform to the policies and zoning of the certified County of San Mateo Local Coastal Program (LCP) concerning conservation of sensitive habitats, agricultural lands, and visual resources.

### **Sensitive Habitats**

The approved development is inconsistent with the sensitive habitat policies of the County of San Mateo LCP.

The County of San Mateo LCP policy 7.3, Protection of Sensitive Habitats, prohibits land uses and development that would have a significant adverse impact on sensitive habitat areas. Pursuant to LCP Policy 7.4, only resource dependent uses are permitted in areas meeting the LCP definition of sensitive habitat. The site contains significant areas of coastal terrace prairie, which is a sensitive habitat as defined in LCP Policy 7.1. The proposed residence, agricultural barn and access road are all located in areas identified as coastal terrace prairie. The County found that the approved project would impact approximately 0.7 acres of coastal terrace prairie. Based on this finding alone, the approved development is inconsistent with LCP policy 7.4. In addition, although the County found that this impact was "unavoidable," there are several areas, primarily in the southeast portion of the site that would allow development to occur without impacting this or other identified sensitive habitat areas, and conform to the requirements of Policies 7.3 and 7.4. The County's findings contained no analysis of available alternative locations for the approved structures or roads that would avoid impacting this sensitive habitat. Therefore, the approved project is inconsistent with County of San Mateo LCP Policies 7.3 and 7.4, which specifically prohibit land uses and development that which would have a significant adverse impact on sensitive habitat areas and prohibits non resource dependent uses, such as residential development in sensitive habitat areas.

### **Agriculture**

The approved development is inconsistent with the agricultural policies of the County of San Mateo LCP.

The project site is located on the east side of Cabrillo Highway near Tunitas Creek Road in the rural unincorporated area of the San Mateo Coast south of Half Moon Bay. The project site is zoned Planned Agricultural District/Coastal Development (PAD/CD). The principal permitted use of the site is agriculture. Conditional uses, including residential development, are permitted provided that the project meets all of the criteria identified in San Mateo County LCP Agricultural policy 5.10, Conversion of Land Suitable for Agriculture Designated as Agriculture, as follows:

#### 5.10. Conversion of Land Suitable for Agriculture Designated as Agriculture

- a. Prohibits the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:
- (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;
  - (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;
  - (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;
  - (4) The productivity of any adjacent agricultural lands is not diminished;
  - (5) Public Service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

The approved project includes the construction of a new 7,650 sq. ft. residence, a 3,000 sq. ft. agricultural barn, and approximately 5,280 cubic yards of grading to create an approximately 3,000 ft long access road. A part of the approved grading includes the repair of some of the existing eroded gullies on the property. As approved, the development occurs on soils designated as Suitable for Agriculture and Other Lands that allow for cattle grazing, which is the current use of the property. According to the Natural Resources Conservation Service, there are no Prime, Unique, or Statewide Important soils mapped on the site. The County findings for approval of the project as contained in the County staff memorandum dated June 9, 2004, states that "a small portion of the property (approximately 0.01%) would be converted to non-agricultural uses, the single family residence and driveway." However, the County's findings do not provide evidence to satisfy the requirements of 5.10.a, (1) and (2), above, which specifically prohibits the conversion of lands suitable for agricultural use unless (1) the project demonstrates that all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and (2) the continued or renewed agricultural use of the soils is not feasible. Moreover, because the economic value of the approved residential development would vastly exceed the economic value of the site for grazing, the approved development would effectively convert the entire site from agricultural use to residential use, rendering continued agricultural use of the site subordinate to the residential development. Thus, the County's determination that the approved development would convert only 0.01% of the site to non-agricultural development is misleading. Therefore, the approved project is inconsistent with San Mateo County LCP Agricultural policy 5.10, Conversion of Land Suitable for Agriculture Designated as Agriculture

Additionally, County of San Mateo Zoning Regulation Section 6355 A.2 (applicable to development in a Planned Agricultural District [PAD]) requires that: "All development on the site shall be clustered." The County staff memorandum dated June 9, 2004, states that "the proposed residence and agricultural barn are clustered with each other in the northeastern portion of the property." However, as shown on Attachment C-1, (Site Plan) to the County's findings, the residence and barn are located approximately 800 feet apart

requiring approximately 1,200 feet of additional road grading and construction (see Figure 1). In addition, existing residential development is located on parcels adjacent to the project site along Tunitas Creek Road. The approved development is not clustered near this existing development or near Tunitas creek Road, but instead is located approximately 2,000 feet from this existing development requiring the construction of a 3,000-foot long road dividing undeveloped grazing lands and interfering with continued agricultural use of the site. As such, the approved development does not meet the requirement to cluster development as specified in Section 6355 A.2.

### **Visual Resources**

The approved development is inconsistent with the visual resource policies of the County of San Mateo LCP.

The approved project will create an approximately 3,000 ft long access road requiring approximately 5,280 cubic yards of grading. The approved road would transect the south facing slopes from west to east, generally following the natural topography. The access road would be located on slopes greater than 15%.

The County did not evaluate the approved road for conformance with all of the relevant visual policies of the San Mateo County LCP. The approved access road is considered development under the San Mateo LCP and therefore must be evaluated for potential visual impacts.

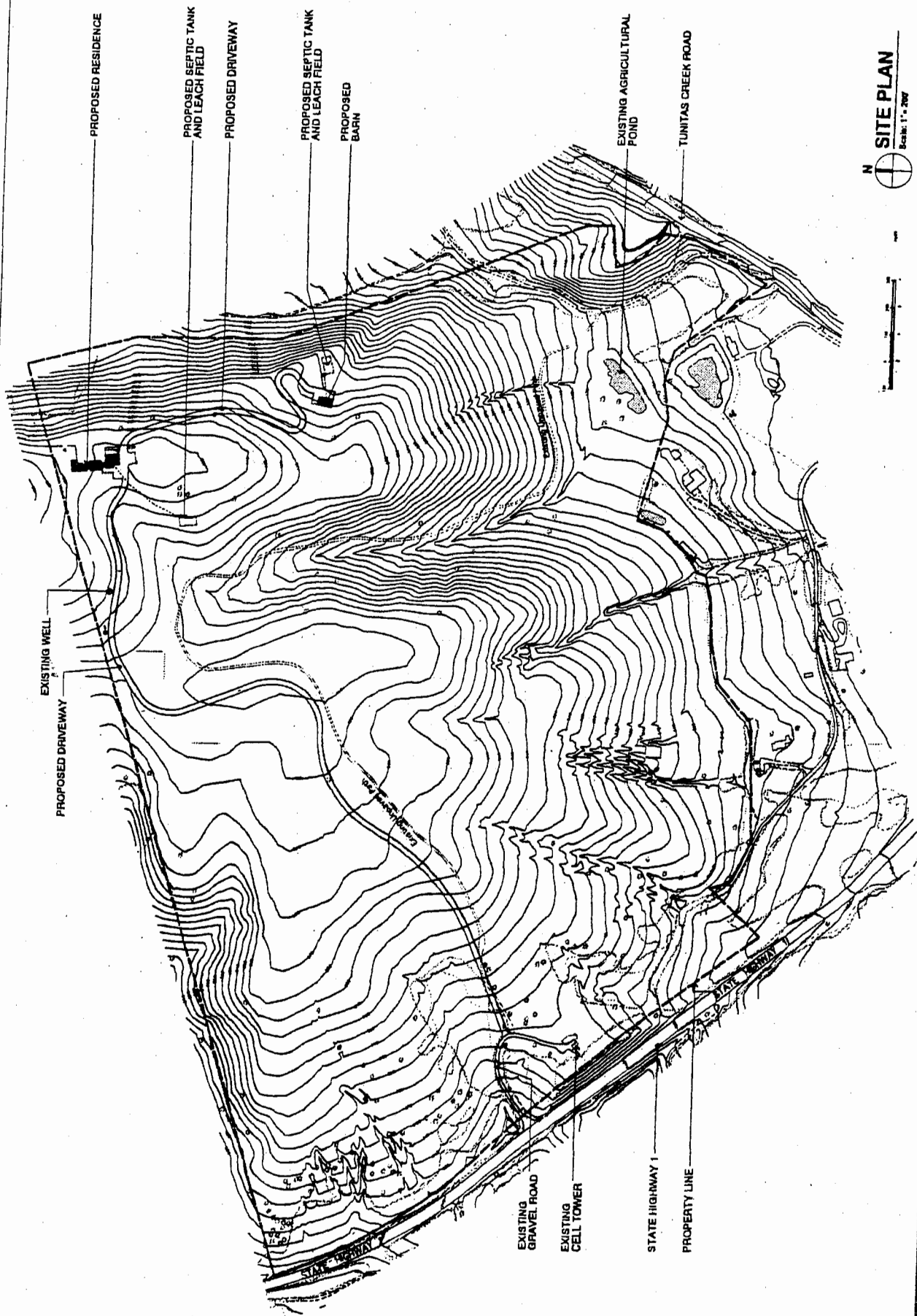
San Mateo County LCP Policy 8.5, Location of Development, requires that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Furthermore, LCP Policy 8.17, Alteration of Landforms; Roads and Grading, requires that development be located and designed to conform with, rather than change landforms and minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development. This policy further requires that development be controlled to avoid the need to construct access roads visible from state and County Scenic Roads and require the shared use of existing private roads whenever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall also be located and designed to minimize visibility from State and County Scenic Roads, and built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics. County of San Mateo Zoning Regulation Section 6355 A.2 also requires all development within a PAD to be clustered on the site.

The approved project locates the proposed residence in an isolated area in the northeast corner of the parcel, necessitating the construction of a long access road. The approved access road connects the location of the proposed residence with State Highway 1, located adjacent to the western boundary of the parcel. According to the County staff

report, the residence itself will not be visible from either Highway 1 or Tunitas Creek Road to the southeast of the property. However, based on Coastal Commission staff review of available photographs and topographic maps of the property, the access road transecting the site would likely be visible from portions of Highway 1, and from areas to the south of the site. Additionally, the proposed road would require extensive cut and fill grading (approximately 5280 cubic yards).

As discussed above, available alternative locations for the residence and agricultural barn would allow for appropriate clustered development. Such clustered development, particularly located in the southeastern portion of the property, could then be accessed from Tunitas Creek Road, significantly shortening the required access road and eliminating visual impacts from Highway 1. Such clustering would also serve to concentrate development of the parcel closer to where existing development on adjacent parcels has already occurred, further preserving the visual and open space qualities of the parcel. Therefore, for all of the above stated reasons, the approved project does not conform to the requirements of LCP policies 8.5 and 8.17 above





# San Mateo County Planning Commission Meeting

Applicant: **Piechota**

File Numbers: **PLN 2002-00375**

Attachment: **C.1**

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



**APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name, mailing address and telephone number of appellant(s):

<u>Mike Reilly</u>			
<u>575 Administration Drive, Room 100</u>			
<u>Santa Rosa, CA</u>	<u>95403-2887</u>	<u>( 707 )</u>	<u>565-2241</u>
Zip		Area Code	Phone No.

**SECTION II. Decision Being Appealed**

1. Name of local/port government:  
County of San Mateo
2. Brief description of development being appealed:  
Construction of a new 7,650 sq.ft. residence, a 3,000 sq.ft. agricultural barn, two septic systems, conversion of an agricultural well for both agricultural and domestic purposes, installation of a water tank, construct 3,000 ft. access road.
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
21960 Cabrillo Highway, Half Moon Bay, San Mateo County, APN: 066-330-160  
Cabrillo Highway near Tunitas Creek Road
4. Description of decision being appealed:
  - a. Approval; no special conditions: \_\_\_\_\_
  - b. Approval with special condition:   x
  - c. Denial: \_\_\_\_\_

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-2-SMC-04-009  
DATE FILED: July 15, 2004  
DISTRICT: North Central Coast District

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning  
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of  
Supervisors

d. ☐ Other

6. Date of local government's decision: June 9, 2004

7. Local government's file number (if any): PLN2002-00375

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Mr. and Mrs. Keith and Cynthia Waddell

2221 Bayhill Court

Half Moon Bay, CA 94019

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Mr. Daniel Piechota

Sagan Piechota Architecture

315 Linden Street, San Francisco, CA 94102

(2)

(3)

(4)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
Page 3

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SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Mike Reilly  
Appellant or Agent Mike Reilly

Date: July 15, 2004

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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Additionally, County of San Mateo Zoning Regulation Section 6355 A.2 (applicable to development in a Planned Agricultural District [PAD]) requires that: "All development on the site shall be clustered." The County staff memorandum dated June 9, 2004, states that "the proposed residence and agricultural barn are clustered with each other in the northeastern portion of the property." However, as shown on Attachment C-1, (Site Plan) to the County's findings, the residence and barn are located approximately 800 feet apart

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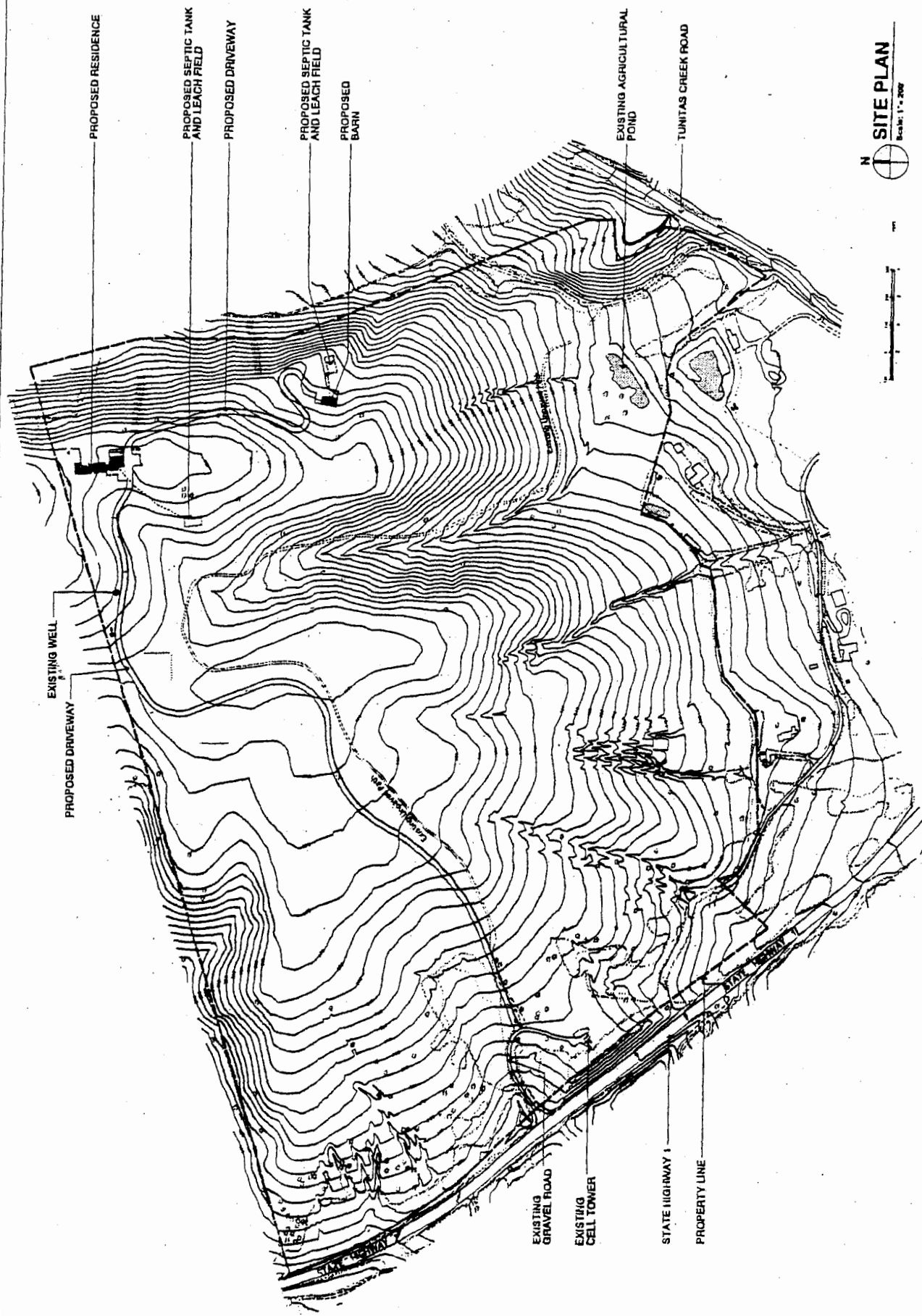
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N  
 SITE PLAN  
 Scale: 1" = 200'

**San Matea County Planning Commission Meeting**

Applicant: **Piechota**

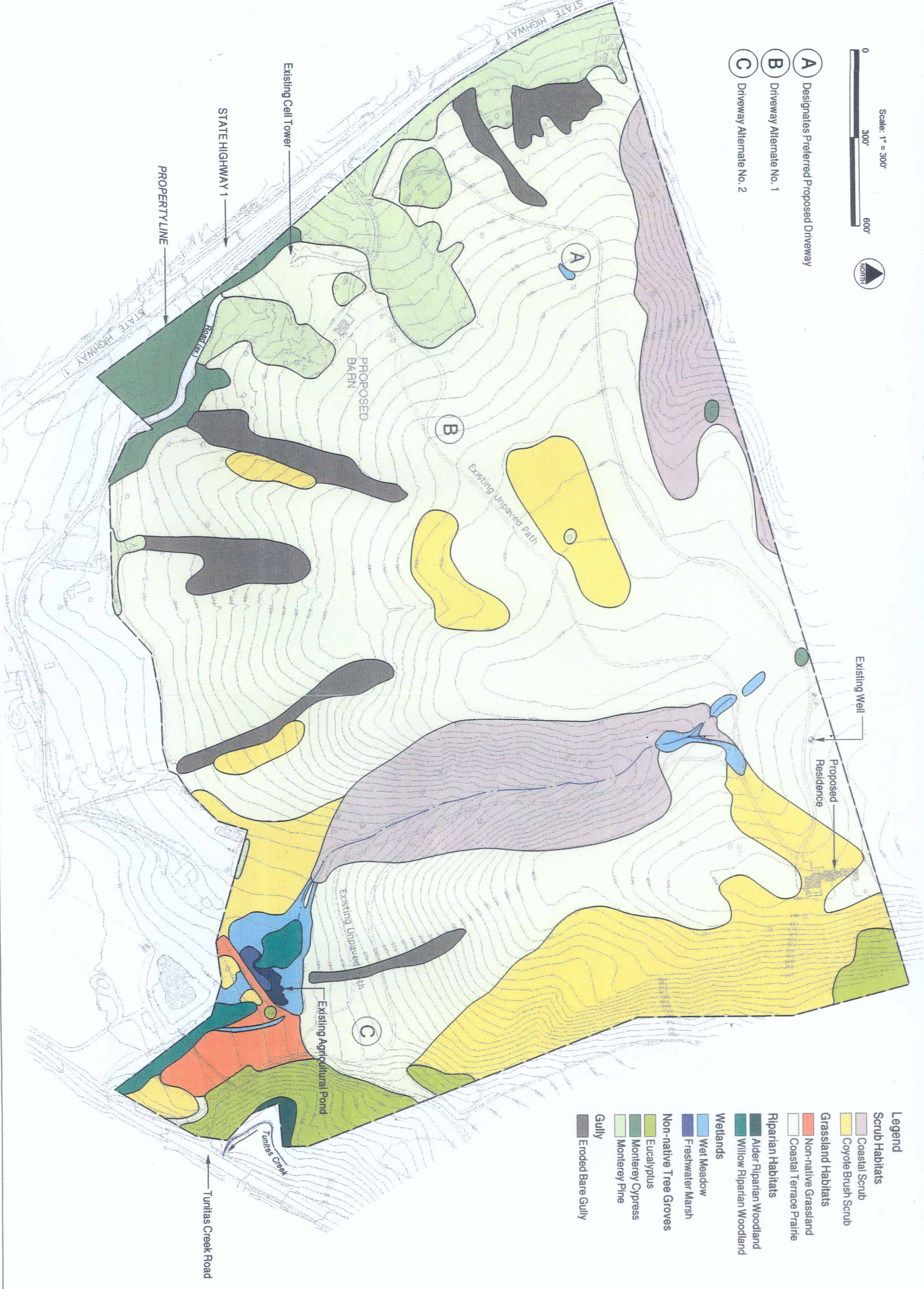
Attachment: *C-1*

File Numbers: **PLN 2002-00375**





- A** Designates Preferred Proposed Driveway
- B** Driveway Alternate No. 1
- C** Driveway Alternate No. 2



- Legend**
- Scrub Habitats**
    - Coastal Scrub
    - Coyote Brush Scrub
  - Grassland Habitats**
    - Non-native Grassland
    - Coastal Terrace Prairie
  - Riparian Habitats**
    - Alder Riparian Woodland
    - Willow Riparian Woodland
  - Wetlands**
    - Wet Meadow
    - Freshwater Marsh
  - Non-native Tree Groves**
    - Eucalyptus
    - Monterey Cypress
    - Monterey Pine
  - Gully**
    - Eroded Bare Gully



# Coastal Prairie Dependent Species of Santa Cruz County

From: Hayes, Grey. 2003. Conservation Strategy for Coastal Prairie Conservation

Scientific name	Common name
<b><u>Anagallis minima</u></b>	
<i>Brodiaea terrestris</i>	
<i>Brodiaea elegans</i>	Elegant Brodiaea
<i>Calandrinia ciliata</i>	Red maids
<i>Calochortus luteus</i>	Yellow mariposa lily
<i>Calochortus uniflorus</i>	
<i>Camissonia ovata</i>	Sun cups
<i>Carex brevicaulis</i>	
<i>Carex densa</i>	
<i>Castilleja castillejoides</i>	
<i>Castilleja densiflora</i> var <i>densiflora</i>	Purple owl's clover
<i>Castilleja densiflora</i> var <i>noctuinus</i>	
<i>Cicendia quadrangularis</i>	
<i>Cirsium quercetorum</i>	Brownie thistle
<i>Clarkia daveyi</i>	
<i>Clarkia purpurea purpurea</i>	Four spot
<i>Chorizanthe robusta</i>	Scotts Valley Spineflower
<i>hartwegiana</i>	
<i>Danthonia californica</i>	California oatgrass
<i>Deschampsia caespitosa</i>	Tufted hair grass
<i>Deschampsia danthonioides</i>	
<i>Dichondra donnelliana</i>	
<i>Dodecatheon clevelandii</i>	Cleveland's shooting star
<i>Hemizonia corymbosa</i>	
<i>Holocarpha macradenia</i>	Santa Cruz Tarplant
<i>Horkelia marinensis</i>	Pt. Reyes Horkelia
<i>Isoetes</i> spp.	Quillworts
<i>Juncus bufonius</i>	Toad rush
<i>Juncus occidentalis</i>	Western rush
<i>Lasthenia californica</i>	Goldfields
<i>Lilaea scilloides</i>	
<i>Linanthus parviflorus</i>	
<i>Lotus formosissimus</i>	Coast trefoil
<i>Lupinus nanus</i>	Sky lupine
<i>Microseris bigelovii</i>	Bigelow's Microseris
<i>Microseris paludosa</i>	
<i>Montia fontana</i>	

EXHIBIT NO.	8
APPLICATION NO.	
A-2-SMC-04-009	
WADDELL	

*Panicum pacificum*  
*Perideridia gairdneri*  
*Perideridia kelloggii*  
*Plagiobothrys chorisianus*  
*Plagiobothrys diffusus*  
*Sanicula arctopoides*  
*Scirpus cernuus*  
*Scirpus koiolepis*  
*Sidalcea malvaeiflora*  
*Spiranthes romanzoffiana*  
*Trifolium buckwestiorum*  
*T. variegatum*, *T. barbigerum*,  
*T. microdon*, *T. depauperatum*,  
*T. appendiculatum*, *T. grayi*, *T.*  
*truncatum*  
*Triphysaria eriantha eriantha*  
*Triphysaria eriantha rosea*  
*Triphysaria faucibarbata*  
*Triphysaria pusilla*  
*Triteleia hyacinthina*  
*Viola pedunculata*  
*Zigadenus fontanus*  
*Zigadenus fremontii minor*

Pacific panic grass  
 Gairdner's Yampah  
 Kellogg's Yampah  
 Artist's popcornflower  
 San Francisco popcornflower  
 Footsteps of spring

Checkerbloom  
 Western ladies tresses  
 Santa Cruz clover  
 Many other clovers

Hyacinth flowered Brodiaea

Dwarf star lily

## Non-native Plants

Scientific name

Common name

### **Avena barbata**

*Avena fatua*  
*Bellardia trixago*  
*Brachypodium distachyon*  
*Bromus hordeaceus*  
*Erodium botrys*  
*Erodium cicutarium*  
*Festuca arundinacea*  
*Holcus lanatus*  
*Hordeum murinum*  
*Leontodon nudicaule*  
*Lolium multiflorum*  
*Phalaris arundinacea*  
*Plantago lanceolata*  
*Romulea spp.*  
*T. angustifolium*  
*T. dubium*  
*Trifolium subterraneum*

Slender oats  
 Wild oats  
  
 Soft chess  
 Storks bill  
 Red stemmed filaree  
 Tall fescue  
 Velvet grass  
 Foxtail  
 Hawk bit  
 Italian rye grass  
 Harding grass  
 English plantain

Native Animals  
(common names)

American kestrel  
Badger  
Buckeye butterfly  
Burrowing owl  
California ground squirrel  
California ringlet  
Ferruginous hawk  
Golden eagle  
Gopher snake  
Grasshopper sparrow  
Northern harrier

Western meadowlark  
Western racer  
White-tailed kite  
Horned lark  
Lark sparrow  
Meadow vole  
Ohlone tiger beetle  
Opler's longhorn moth  
Oxeye satyr butterfly  
Savannah sparrow  
Western bluebird